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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 319, 322, 352, and 353

9 CFR Parts 93 and 94

[Docket No. APHIS–2016–0016]

Use of Electronic Information Exchange Systems; Miscellaneous Amendments

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending our regulations regarding the importation or exportation of animals and animal products and plants and plant products to address instances where the current regulations require the use of a hard-copy form or specify that a particular document must be submitted in writing. This final rule amends the regulations to provide the flexibility needed for persons to take advantage of electronic systems when a regulation has a limiting requirement. The amendments we are making in this final rule are not to mandate the use of electronic systems or preclude the use of paper documents; rather, they address those instances where our regulations specify a submission method to the exclusion of other methods.

DATES: Effective June 21, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen O'Neill, Chief, Regulatory Analysis and Development, PPD, APHIS, 4700 River Road, Unit 118, Riverdale, MD 20737–1231; (301) 851–3072.

SUPPLEMENTARY INFORMATION:

Background

The Security and Accountability for Every Port Act of 2006 ("SAFE Act") requires the interagency establishment of a single portal system, known as the International Trade Data System (ITDS), to be operated by U.S. Customs and Border Protection (CBP). ITDS is an electronic information exchange capability, or "single-window," through which individuals and businesses will transmit data required by participating agencies for the importation or exportation of cargo. The goal of ITDS is to eliminate redundant data reporting and replace multiple filings, many of which are on paper. ITDS provides individuals and companies involved in international trade with an electronic format to secure necessary certifications, complete required forms, and provide information about the requirements and regulations relevant to the commodity of interest. The Animal and Plant Health Inspection Service (APHIS) has actively participated in the development of ITDS in cooperation with CBP and other Federal agencies.

As part of the ITDS initiative, CBP developed the Automated Commercial Environment (ACE), a single, centralized, online access point that connects the trade community and partner government agencies. ACE will allow trade participants access to and management of their trade information via reports; expedite legitimate trade by providing CBP with tools to efficiently process imports/exports and move goods quickly across the border; improve communication, collaboration and compliance efforts between CBP and the trade community; facilitate efficient collection, processing and analysis of commercial import and export data; and provide an information-sharing platform for trade data throughout government agencies.

For its part, APHIS is working to enhance trade facilitation in several ways. In some cases, APHIS programs will work within ACE to take required actions. In other cases, legacy systems will be updated to allow for more efficient processing of the information. For example, a new permitting system, E-file, is currently being developed to replace the legacy E-permits system. E-file will be used across APHIS programs, will include advanced functionality, and will provide permitting data directly to ACE to allow for speedier review and admissibility determinations at the ports of arrival. Other APHIS system enhancements will allow for better communication with our CBP Agriculture colleagues concerning pest identification and allow for expansion of e-certification opportunities with our trading partners. APHIS recognizes the advantages provided by the "single-window" concept and will continue to incorporate those strategies into future planning.

On February 19, 2014, President Obama issued Executive Order (E.O.) 13659, Streamlining the Export/Import Process for America's Businesses, in order to reduce unnecessary procedural requirements to commerce while continuing to protect our national security, public health and safety, the environment, and natural resources. Pursuant to E.O. 13659, participating Federal agencies are to have capabilities, agreements, and other requirements in place to utilize ITDS and supporting systems such as ACE as the primary means of receiving from users the standard set of data and other relevant documentation required for the release of imported cargo and clearance of cargo for export no later than by December 31, 2016.

Pursuant to E.O. 13659, APHIS has reviewed its regulations in 7 CFR chapter III and 9 CFR chapter I to identify any provisions that may present an obstacle to the use of ACE/ITDS or similar systems by persons importing plants/plant products or animals/animal products that are subject to APHIS' regulations.

In particular, we looked for instances where the regulations required the use of a hard-copy form or specified that a particular document had to be submitted in writing. Where those limiting sorts of requirements were found, this final rule amends the regulations to provide the flexibility needed for persons to take advantage of electronic systems. The amendments we are making in this final rule do not mandate the use of electronic systems or preclude the use of paper documents; rather, the rule simply addresses those instances where our regulations specify a submission method to the exclusion of other methods.

In many cases, however, we found our regulations require importers or shippers to provide documents such as import permits or certificates upon arrival in the United States without specifying the medium in which those documents must be provided. We do not believe that provisions written in that manner require any changes since the language used already allows for the use of electronic systems.

Effective Date

This final rule amends the regulations regarding the importation or exportation of animals and animal products and plants and plant products to address instances where the regulations require the use of a hard-copy form or specify that a particular document must be submitted in writing. Where those limiting sorts of requirements exist, this final rule amends the regulations to provide the flexibility needed for persons to take advantage of electronic systems without precluding the use of other methods already in place. Accordingly, the Administrator of APHIS has determined that good cause exists under 5 U.S.C. 553 to publish this final rule without prior notice and opportunity for public comment.

Since prior notice and other public procedures with respect to this final rule are impracticable, unnecessary, and contrary to the public interest, there is good cause under 5 U.S.C. 553 for making this final rule effective upon publication.

Finally, since a notice of proposed rulemaking is not required pursuant to 5 U.S.C. 553, APHIS is not required to prepare and make available for public comment an initial or final regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 603 and 604).

Executive Order 12866

This rule is subject to Executive Order 12866. However, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

7 CFR Part 322

Bees, Honey, Imports, Reporting and recordkeeping requirements.

7 CFR Part 352

Customs duties and inspection, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

7 CFR Part 353

Exports, Plant diseases and pests, Reporting and recordkeeping requirements.

9 CFR Part 93

Animal diseases, Imports, Livestock, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements.

9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 7 CFR parts 319, 322, 352, and 353 and 9 CFR parts 93 and 94 are amended as follows:

Title 7—Agriculture

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450 and 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 319.6 [Amended]

■ 2. In § 319.6, paragraph (e)(4) is amended by removing the words "written permission" and adding the word "authorization" in their place.

■ 3. Section 319.8–4 is revised to read as follows:

§ 319.8–4 Notice of arrival.

Immediately upon arrival at a port of entry of any shipment of cotton or covers, the importer shall submit to an inspector or, in the case of Guam, through the Customs officer of the Government of Guam, notice of such arrival using a form provided for that purpose (Form PPQ–368). Forms will be submitted using a U.S. Government electronic information exchange system or other authorized method.

(Approved by the Office of Management and Budget under control number 0579–0049)

§ 319.40–4 [Amended]

■ 4. In § 319.40–4, paragraph (a) is amended by removing the words "A written" and adding the word "An" in their place.

§ 319.40–9 [Amended]

■ 5. In § 319.40–9, paragraph (b)(1) is amended by removing the words "in writing or by telephone" and adding the words "by any authorized method" in their place.

PART 322—BEES, BEEKEEPING BYPRODUCTS, AND BEEKEEPING EQUIPMENT

■ 6. The authority citation for part 322 continues to read as follows:

Authority: 7 U.S.C. 281; 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

■ 7. Section 322.7 is amended as follows:

■ a. By removing the period at the end of paragraph (b)(3) and adding the word ", or" in its place.

■ b. By adding paragraph (b)(4).

The addition reads as follows:

§ 322.7 Notice of arrival.

* * * * *

(b) * * *

(4) Using a U.S. Government electronic information exchange system or other authorized method.

* * * * *

■ 8. Section 322.31 is amended as follows:

■ a. By removing the period at the end of paragraph (b)(3) and adding the word ", or" in its place.

■ b. By adding paragraph (b)(4).

The addition reads as follows:

§ 322.31 Notice of arrival.

* * * * *

(b) * * *

(4) Using a U.S. Government electronic information exchange system or other authorized method.

* * * * *

PART 352—PLANT QUARANTINE SAFEGUARD REGULATIONS

■ 9. The authority citation for part 352 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

■ 10. Section 352.7 is revised to read as follows:

§ 352.7 Notice of arrival.

Immediately upon arrival of any shipment of plants or plant products (including noxious weeds) subject to this part and covered by a specific permit, the importer shall submit to an inspector notice of such arrival using a form provided for that purpose (Form PPQ–368) and, where relevant, the proposed routing to the proposed U.S.

port of exit. Forms will be submitted using a U.S. Government electronic information exchange system or other authorized method. Notice of arrival shall not be required for other products or articles subject to this part since other available documentation meets the requirement for this notice.

(Approved by the Office of Management and Budget under control number 0579–0049)

PART 353—EXPORT CERTIFICATION

■ 11. The authority citation for part 353 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 353.1 [Amended]

■ 12. Section 353.1 is amended as follows:

■ a. In the definition of *export certificate for processed plant products,* by adding the words "or an approved electronic equivalent" after the words "Form 578".

■ b. In the definition of *phytosanitary certificate,* by adding the words "or an approved electronic equivalent" after the words "Form 577".

■ c. In the definition of *phytosanitary certificate for reexport,* by adding the words "or an approved electronic equivalent" after the words "Form 579".

§ 353.2 [Amended]

■ 13. Section 353.2 is amended by removing the words "(PPQ Form 577)", "(PPQ Form 579)", and "(PPQ Form 578)".

■ 14. In § 353.5, paragraph (a) is revised as follows:

§ 353.5 Application for certification.

(a) To request the services of an inspector, a written application (PPQ Form 572) shall be made as far in advance as possible, and shall be filed in the office of inspection at the port of certification. Forms will be submitted using a U.S. Government electronic information exchange system or other authorized method.

* * * * *

Title 9—Animals and Animal Products

PART 93—IMPORTATION OF CERTAIN ANIMALS, BIRDS, FISH, AND POULTRY, AND CERTAIN ANIMAL, BIRD, AND POULTRY PRODUCTS; REQUIREMENTS FOR MEANS OF CONVEYANCE AND SHIPPING CONTAINERS

■ 15. The authority citation for part 93 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 93.101 [Amended]

■ 16. Section 93.101 is amended as follows:

■ a. In paragraph (d) introductory text, footnote 4 is amended by adding the words "or by visiting *http://www.aphis.usda.gov/animal_health/permits/*" after the numbers "20737–1231".

■ b. In paragraph (f)(2)(iii)(B) introductory text, by adding the words ", available electronically or through other authorized method" after the words "Form 17–8".

§ 93.103 [Amended]

■ 17. In § 93.103, paragraph (a)(1) introductory text, footnote 8 is amended by adding the words "or by visiting *http://www.aphis.usda.gov/animal_health/permits/*" after the numbers "20737–1231".

■ 18. In § 93.206, paragraph (c) is added to read as follows:

§ 93.206 Declaration and other documents for poultry.

* * * * *

(c) Any declaration, permit, or other document for poultry required under this subpart may be issued and presented using a U.S. Government electronic information exchange system or other authorized method.

§ 93.215 [Amended]

■ 19. In § 93.215, paragraph (a)(2) is amended by removing the word "paper" and adding the word "document" in its place, and by removing the words "attached to" and adding the words "included with" in their place.

■ 20. In § 93.305, paragraph (c) is added to read as follows:

§ 93.305 Declaration and other documents for horses.

* * * * *

(c) Any declaration, permit, or other document for horses required under this subpart may be issued and presented using a U.S. Government electronic information exchange system or other authorized method.

■ 21. In § 93.407, paragraph (c) is added to read as follows:

§ 93.407 Declaration and other documents for ruminants.

* * * * *

(c) Any declaration, permit, or other document for ruminants required under this subpart may be issued and presented using a U.S. Government electronic information exchange system or other authorized method.

§ 93.421 [Amended]

■ 22. In § 93.421, paragraph (a)(2) is amended by removing the word "paper" and adding the word "document" in its place, and by removing the words "attached to" and adding the words "included with" in their place.

■ 23. In § 93.506, paragraph (c) is added to read as follows:

§ 93.506 Declaration and other documents for swine.

* * * * *

(c) Any declaration, permit, or other document for swine required under this subpart may be issued and presented using a U.S. Government electronic information exchange system or other authorized method.

§ 93.519 [Amended]

■ 24. In § 93.519, paragraph (a)(2) is amended by removing the word "paper" and adding the word "document" in its place, and by removing the words "attached to" and adding the words "included with" in their place.

■ 25. In § 93.704, paragraph (b) is revised to read as follows:

§ 93.704 Import permit.

* * * * *

(b) *Import permit required.* Any person who desires to import a hedgehog or tenrec must submit an application (VS Form 17–129) for an import permit. Applications are available from the Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, 4700 River Road Unit 39, Riverdale, MD 20737–1231 or by visiting *http://www.aphis.usda.gov/animal_health/permits/*. A separate application must be prepared for each shipment.

* * * * *

■ 26. In § 93.802, paragraph (b) is revised to read as follows:

§ 93.802 Import permit.

* * * * *

(b) An application for an import permit may be obtained from the Import-Export Animals Staff, National Center for Import-Export, Veterinary Services, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231 or by visiting *http://www.aphis.usda.gov/animal_health/permits/*.

* * * * *

§ 93.804 [Amended]

■ 27. Section 93.804 introductory text is amended by adding the words "or by visiting *http://www.aphis.usda.gov/animal_health/permits/*" after the numbers "20737–1231" and by removing the words "It must state:" and adding the words "Forms may be provided to the inspector using a U.S. Government electronic information exchange system or other authorized method. The completed form must state:" in their place.

■ 28. In § 93.905, paragraph (b) is added to read as follows:

§ 93.905 Declaration and other documents for live fish, fertilized eggs, and gametes.

* * * * *

(b) Any declaration, permit, or other document for live fish, fertilized eggs, and gametes required under this subpart may be issued and presented using a U.S. Government electronic information exchange system or other authorized method.

* * * * *

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, NEWCASTLE DISEASE, HIGHLY PATHOGENIC AVIAN INFLUENZA, AFRICAN SWINE FEVER, CLASSICAL SWINE FEVER, SWINE VESICULAR DISEASE, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

■ 29. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

§ 94.6 [Amended]

■ 30. In § 94.6, paragraph (d) is amended by adding the words "or visit *http://www.aphis.usda.gov/animal_health/permits/*" at the end of the sentence.

§ 94.15 [Amended]

■ 31 In § 94.15, paragraphs (b)(1) and (c)(1) are amended by adding the words "or by visiting *http://www.aphis.usda.gov/animal_health/permits/*" after the numbers "20737–1231".

■ 32. In § 94.24, paragraph (b)(2) is revised to read as follows:

§ 94.24 Restrictions on importation of meat and edible products from ovines and caprines due to bovine spongiform encephalopathy.

* * * * *

(b) * * *

(2) The person importing the gelatin obtains a United States Veterinary Permit for Importation and Transportation of Controlled Materials and Organisms and Vectors by filing a permit application on VS Form 16–3. Permit applications are available from APHIS, Veterinary Services, National Center for Import and Export, 4700 River Road Unit 38, Riverdale, MD 20737–1231, or at *http://www.aphis.usda.gov/animal_health/permits/*. Forms may be submitted using a U.S. Government electronic information exchange system or other authorized method. The application for such a permit must state the intended use of the gelatin and name and address of the consignee in the United States.

§ 94.27 [Amended]

■ 33. In § 94.27, the introductory text of paragraph (b) is amended by adding the words "Notification may be made using a U.S. Government electronic information exchange system or other authorized method." after the words "before such transit."

Done in Washington, DC, this 15th day of June 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–14616 Filed 6–20–16; 8:45 am]

BILLING CODE 3410–34–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 747

RIN 3133–AE59

Civil Monetary Penalty Inflation Adjustment

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule with request for comments.

SUMMARY: The NCUA Board (Board) is amending its regulations to adjust the maximum amount of each civil monetary penalty (CMP) within its jurisdiction to account for inflation. This action, including the amount of the adjustments, is required under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: This interim final rule is effective July 21, 2016. Comments must be received on or before July 21, 2016.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *NCUA Web site: https://www.ncua.gov/regulation-supervision/Pages/rules/proposed.aspx*. Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov*. Include "[Your name] Comments on "Civil Monetary Penalty Inflation Adjustment" in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: All public comments are available on the agency's Web site at *http://www.ncua.gov/RegulationsOpinionsLaws/comments* as submitted, except as may not be possible for technical reasons. Public comments will not be edited to remove any identifying or contact information. Paper copies of comments may be inspected in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9:00 a.m. and 3:00 p.m. To make an appointment, call (703) 518–6546 or send an email to *OGCMail@ncua.gov*.

FOR FURTHER INFORMATION CONTACT: Ian Marenna, Senior Trial Attorney, at 1775 Duke Street, Alexandria, VA 22314, or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Legal Background
II. Calculation of Adjustments
III. Regulatory Procedures

I. Legal Background

A. Statutory Requirements and Overview of Changes Enacted in 2015

The Debt Collection Improvement Act of 1996[1] (DCIA) amended the Federal Civil Penalties Inflation Adjustment Act of 1990[2] (FCPIA Act) to require every federal agency to enact regulations that adjust each CMP provided by law under its jurisdiction by the rate of inflation at least once every four years. The Board most recently adjusted CMPs within its jurisdiction in September 2015.[3]

In November 2015, Congress further amended the CMP inflation requirements in the Bipartisan Budget Act of 2015,[4] which contains the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 amendments).[5] This legislation provides for an initial "catch-up" adjustment of CMPs in 2016, followed by annual adjustments. The catch-up adjustment will generally re-set CMP maximum amounts by setting aside the inflation adjustments that agencies made in prior years and instead calculating inflation with reference to the year when each CMP was enacted or last modified by Congress.

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[1] Public Law 104–134, sec. 31001(s), 110 Stat. 1321–373 (Apr. 26, 1996). The law is codified at 28 U.S.C. 2461 note.

[2] Public Law 101–410, 104 Stat. 890 (Oct. 5, 1990), also codified at 28 U.S.C. 2461 note.

[3] 80 FR 57284 (Sept. 23, 2015).

[4] Public Law 114–74, 129 Stat. 584 (Nov. 2, 2015).

[5] 129 Stat. 599.

The 2015 amendments made several procedural changes including: (1) Starting in 2016, each agency must adjust its CMPs for inflation annually by the date set forth in the 2015 amendments; (2) the rounding ranges and procedure that applied before the 2015 amendments no longer apply, and agencies instead must round increases to the nearest dollar; (3) the ten percent cap on the first adjustment of any CMP has been eliminated; (4) the amount of the 2016 adjustment is limited to 150 percent of the amount of each CMP on the date that the 2015 amendments were enacted; and (5) October, rather than June, will be the relevant month for determining the percentage increase in inflation between relevant years.[6]

The legislation also modified the process by making the following additional changes: (1) In 2016, agencies will make the required adjustments through an interim final rule by July 1, 2016, to be effective by August 1, 2016; (2) in 2017 and subsequent years, agencies will make the required adjustments through direct final rules published and effective by January 15 of each year; (3) the adjusted maximum amounts will apply to CMPs issued after the adjustment takes effect, including cases in which the associated violation predates the adjustment; (4) the Office of Management and Budget (OMB) will publish annual guidance for agencies; (5) agencies must publish information regarding CMPs in their annual financial reports; and (6) the Government Accountability Office will report to Congress annually on agencies' compliance with the statute.[7]

The basic framework for the inflation calculation process remains the same in that agencies must calculate the increase in inflation according to a cost-of-living index and apply this percentage to each CMP to establish a new maximum amount. The resulting adjustment permits but does not require assessment at the new maximum level. Agencies must publish the adjusted maximum amounts in the **Federal Register**, as they did prior to the 2015 amendments.

However, the 2015 amendments do make a significant change to the calculations for the first year by requiring an initial catch-up adjustment to re-set penalty levels.[8] In 2016, agencies must measure inflation by comparing the cost-of-living index for the year in which each CMP was established or last adjusted under a provision other than the FCPIA Act with the index for 2015.[9] That is, agencies must disregard the inflation adjustments that they have made under the FCPIA Act since 1996, determine when Congress initially established or last modified each CMP, and adjust for inflation between that year and 2015. This calculation is based on the amount of the CMP as Congress set it, not the adjustments that agencies have made since 1996 under the FCPIA Act. The amount of the catch-up adjustment is separately limited to 150 percent of the CMP maximum in effect as of November 2, 2015, when the 2015 amendments became effective.[10]

The next section provides more detail on the revised inflation procedures.

B. Statutory Procedures for Calculating Adjustments and OMB Guidance

This section provides a detailed explanation of the inflation adjustment procedures under the 2015 amendments, including the 150 percent cap on the 2016 adjustment, the discretionary exception that agencies may invoke to limit the required increases based on negative economic impact or social costs, and an exception that agencies may apply when a CMP has been increased by a greater amount than the current calculation within the preceding 12 months. The 150 percent cap applies to one CMP within NCUA's jurisdiction, namely the CMP for violating NCUA security requirements.[11] The Board does not seek to invoke the discretionary exception based on negative economic impact or social costs or the exception for greater increases in the preceding 12 months.

In the FCPIA Act, the term "this Act" is used throughout to refer to the entire FCPIA Act as amended, not merely the 2015 amendments or prior amendments. In 2016, agencies must determine the percentage increase in inflation by comparing the October 2015 CPI–U with the CPI–U for October in the year "during which the amount of such civil monetary penalty was established or adjusted pursuant to a provision of law other than this Act." [12] Also, the 2015 amendments provide that the percentage increase in inflation must be applied to the CMP "as it was most recently established or adjusted under a provision of law other than this Act." [13] The increase must be rounded to the nearest dollar.[14] The new maximum CMP is calculated by dividing the October 2015 CPI–U by the CPI–U for October of the year when Congress established or last modified the CMP. The resulting multiplier is applied to the original or modified maximum amount set by Congress to find the new maximum amount.

In making the calculations, the Board refers to the year in which the statute establishing the CMP was enacted, even if the statute provided that the CMP would not go into effect until a later year. In 2015, the Board referred to the year in which the statutes establishing the CMPs became effective.[15] The Board has determined that disregarding delayed effective dates is more consistent with the FCPIA Act's language, as well as OMB's guidance.[16]

After completing this calculation for each CMP, agencies must also consider the 150 percent cap, the exception based on a greater increase within the preceding 12 months of the required adjustment, and the exception based on negative economic impact or social costs. These considerations are described in detail below.

First, "the amount of the increase in a civil monetary penalty . . . shall not exceed 150 percent of the amount of that civil monetary penalty on the date of enactment" of the 2015 amendments.[17] This mandatory cap applies only to the 2016 initial catch-up adjustment. The 150 percent cap applies to the amount of the increase in the CMP. Accordingly, the final maximum amount for each CMP is capped at 250 percent of its current level.[18] Based on the Board's calculations, this cap applies only to NCUA's security requirements CMP.[19]

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[6] Public Law 114–74, 129 Stat. 584 (Nov. 2, 2015).

[7] Id.

[8] Public Law 114–74, sec. 701(b)(2)(B), 129 Stat. 600, codified at 28 U.S.C. 2461 note.

[9] Id.

[10] Id.

[11] 12 U.S.C. 1785(e)(3).

[12] Public Law 114–74, sec. 701(b)(2)(A), 129 Stat. 600, codified at 28 U.S.C. 2461 note. The CPI–U is published by the Department of Labor, Bureau of Labor Statistics, and is available at its Web site: *http://www.bls.gov/cpi/*.

[13] Public Law 114–74, sec. 701(b)(2)(B), 129 Stat. 600, codified at 28 U.S.C. 2461 note.

[14] Public Law 114–74, sec. 701(b)(2)(A), 129 Stat. 600, codified at 28 U.S.C. 2461 note.

[15] The CMPs for senior examiner conflicts of interest, appraisal independence standards, and display of the NCUA insurance logo were enacted with delayed effective dates.

[16] Office of Mgmt. & Budget, Exec. Office of the President, OMB Memorandum No. M–16–06, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, at 3, 6 (2016).

[17] Public Law 114–74, sec. 701(b)(2)(B), 129 Stat. 600, codified at 28 U.S.C. 2461 note.

Second, if a CMP "is, during the 12 months preceding a required cost-of-living adjustment, increased by an amount greater than the amount of the adjustment required . . ., the head of the agency is not required" to make the adjustment.[20] The Board has compared the projected increases with the increases that it made in 2015.[21] The only CMP that was increased by a greater amount in 2015 than it would be under the current adjustments is the appraisal independence standards CMP.[22] The Board will not invoke the exception in this case because: (1) The difference between the existing maximum and the new maximum under the current adjustments is immaterial; and (2) setting the new maximum without invoking this exception will place NCUA's CMP at the same level as the federal banking regulators and the Consumer Financial Protection Bureau, which will be adjusting this CMP for the first time this year.

Third, only for the 2016 adjustment, an agency may seek to limit the amount of an adjustment if it determines that the otherwise-required adjustment would have a "negative economic impact" or that "the social costs" of the increase "outweigh the benefits." [23] To invoke this discretionary exception in 2016, an agency must first publish a notice of proposed rulemaking with an opportunity to comment on the proposed invocation of the exception, and the Director of OMB must concur with the agency's determination.[24] OMB's guidance states that agencies should consult with OMB before proposing to invoke this limitation and must submit the proposal to OMB by May 2, 2016.[25] The memorandum also states that OMB expects "determination concurrences" to be rare.[26]

The statute does not define "negative economic impact" or "social costs." Given these statutory criteria and historical trends in NCUA's CMP assessments, the Board will not seek to invoke this exception for any of its CMP authorities.

In addition to the statute, the Board has reviewed OMB's guidance. On February 24, 2016, as required by the 2015 amendments, OMB published guidance for agencies to implement the new procedures, including the 2016 catch-up adjustment.[27] OMB's guidance covers the following issues: (1) Identifying CMPs to which the law applies; (2) completing the 2016 catch-up adjustment; (3) making future inflation adjustments; and (4) performing agency oversight of inflation adjustments. The Board has reviewed the guidance and finds that the Board's calculations of the increases and the 150 percent cap are wholly consistent with the guidance. Further, the Board finds that it has appropriately identified CMPs subject to adjustment under the FCPIA Act. All of the adjusted CMPs are set by federal law at specific maximums, are assessed by NCUA under the Federal Credit Union Act or other federal statutes, and are assessed or enforced through agency proceedings or civil actions in the federal courts.[28] The Board will also review OMB's guidance in connection with future adjustments and its annual financial reporting requirement.

In sum, under the statute, the Board must determine: (1) When Congress established or most recently modified each CMP; (2) the amount of each CMP as set by Congress at that time; (3) the increase in each CMP based on the CPI–U; (4) whether the increase must be limited by the 150 percent cap; (5) whether the Board will invoke the exception based on a greater increase in a CMP maximum amount in the preceding 12 months; and (6) whether the Board will seek to invoke the exception to limit the increases based on negative economic impact or social costs.

Accordingly, the Board has reviewed the CMPs within its jurisdiction to determine when Congress established or last modified each CMP and to determine the amount set by Congress. Next, the Board applied the appropriate inflationary multiplier to the maximum amount of each CMP as it was established or last modified by Congress in order to determine the new maximum. Finally, the Board considered the 150 percent cap, the exception based on greater increases in the preceding 12 months, and the exception based on negative economic impact or social costs. The next section presents the calculations and applies the 150 percent cap and the two exceptions in detail to arrive at the new maximum CMP amounts to be published in the **Federal Register**.

II. Calculation of Adjustments

A. Penalty Adjustment Calculations

Consistent with the NCUA's September 2015 CMP adjustments, the Board provides the inflation calculations in table format immediately below. The separate table included in the regulatory text section to be published at 12 CFR 747.1001 shows only the adjusted CMPs, not the calculations leading to the adjusted levels. The table below calculates the projected increase by carrying out the steps described above. The multiplier, which is the quotient of the October 2015 CPI–U divided by the CPI–U for October of the year noted in parentheses, is applied to the maximum amount as originally established or last modified by Congress to calculate the new maximum. The final maximum amount is the lesser of the calculated maximum and the 150 percent cap.

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[17] Public Law 114–74, sec. 701(b)(2)(B), 129 Stat. 600, codified at 28 U.S.C. 2461 note.

[18] For consistency, the Board refers to this limitation as the 150 percent cap throughout this rule.

[19] 12 U.S.C. 1785(e)(3).

[20] Public Law 114–74, sec. 701(b)(1)(D), 129 Stat. 600, codified at 28 U.S.C. 2461 note.

[21] The Board notes that this exception is not limited to the initial catch-up adjustment and could apply in the future.

[22] 15 U.S.C. 1639e(k).

[23] Public Law 114–74, sec. 701(b)(1)(D), 129 Stat. 599–600, codified at 28 U.S.C. 2461 note.

[24] Id.

[25] Office of Mgmt. & Budget, Exec. Office of the President, OMB Memorandum No. M–16–06, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, at 3 (2016).

[26] Id.

[27] Office of Mgmt. & Budget, Exec. Office of the President, OMB Memorandum No. M–16–06, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2016).

TABLE—CALCULATION OF MAXIMUM CMP ADJUSTMENTS

Citation	Description/tier[29]	Original maximum ($)	Multiplier	Projected new maximum	150 Percent cap ($)[30]	Adjusted maximum ($) (lesser of projected new maximum and 150 percent cap)
12 U.S.C. 1782(a)(3).	Inadvertent failure to submit a report or the inadvertent submission of a false or misleading report.	2,000	1.89631 (1989)	3,787	8,000	3,787.
12 U.S.C. 1782(a)(3).	Non-inadvertent failure to submit a report or the non-inadvertent submission of a false or misleading report.	20,000	1.89631 (1989)	37,872	80,000	37,872.
12 U.S.C. 1782(a)(3).	Failure to submit a report or the submission of a false or misleading report done knowingly or with reckless disregard.	Lesser of 1,000,000 or 1% of total CU assets.	1.89631 (1989)	1,893,610	3,562,500.	Lesser of 1,893,610 or 1% of total CU assets.
12 U.S.C. 1782(d)(2)(A).	Tier 1 CMP for inadvertent failure to submit certified statement of insured shares and charges due to NCUSIF, or inadvertent submission of false or misleading statement.	2,000	1.73099 (1991)	3,462	8,000	3,462.
12 U.S.C. 1782(d)(2)(B).	Tier 2 CMP for non-inadvertent failure to submit certified statement or submission of false or misleading statement.	20,000	1.73099 (1991)	34,620	80,000	34,620.
12 U.S.C. 1782(d)(2)(C).	Tier 3 CMP for failure to submit a certified statement or the submission of a false or misleading statement done knowingly or with reckless disregard.	Lesser of 1,000,000 or 1% of total CU assets.	1.73099 (1991)	1,730,990	3,562,500	Lesser of 1,730,990 or 1% of total CU assets.
12 U.S.C. 1785(a)(3).	Non-compliance with insurance logo requirements.	100	1.17858 (2006)	118	275	118.
12 U.S.C. 1785(e)(3).	Non-compliance with NCUA security requirements.	100	6.03650 (1970)	554	275	275.
12 U.S.C. 1786(k)(2)(A).	Tier 1 CMP for violations of law, regulation, and other orders or agreements.	5,000	1.89631 (1989)	9,468	21,250	9,468.
12 U.S.C. 1786(k)(2)(B).	Tier 2 CMP for violations of law, regulation, and other orders or agreements and for recklessly engaging in unsafe or unsound practices or breaches of fiduciary duty.	25,000	1.89631 (1989)	47,340	106,250	47,340.
12 U.S.C. 1786(k)(2)(C).	Tier 3 CMP for knowingly committing the violations under Tier 1 or 2 (natural person).	1,000,000	1.89631 (1989)	1,893,610	3,812,500	1,893,610.
12 U.S.C. 1786(k)(2)(C).	Tier 3 (same) (CU)	Lesser of 1,000,000 or 1% of total CU assets.	1.89631 (1989)	1,893,610	3,812,500	Lesser of 1,893,610 or 1% of total CU assets.
12 U.S.C. 1786(w)(5)(A)(ii).	Non-compliance with senior examiner post-employment restrictions.	250,000	1.24588 (2004)	311,470	687,500	311,470.
15 U.S.C. 1639e(k).	Non-compliance with appraisal independence standards (first violation).	10,000	1.08745 (2010)	10,875	27,500	10,875.
15 U.S.C. 1639e(k).	Subsequent violations of the same.	20,000	1.08745 (2010)	21,749	50,000	21,749.
42 U.S.C. 4012a(f)(5).	Non-compliance with flood insurance requirements.	2,000	1.02819 (2012)	2,056	5,000	2,056.

[29] The table uses condensed descriptions of CMP tiers. Refer to the U.S. Code citations for complete descriptions.

[30] This column displays 250 percent of the current maximums found at 12 CFR 747.1001.

B. Application of the 150 Percent Cap and Two Exceptions

This section describes in detail the Board's consideration of the 150 percent cap, the exception based on greater increases in the preceding 12 months, and the exception based on negative economic impact or social costs.

First, as shown in the table above, the Board has applied the 150 percent cap on the amount of the increase of the initial adjustments and has determined that it must limit the increase in the security requirements CMP.[31] The other CMPs are not affected.

Second, the Board has compared the increases calculated above with the increases that it made in September 2015[32] to determine whether any of those increases are greater than the increases calculated for 2016. In September 2015, the Board adjusted this CMP to $11,000.[33] This occurred because under the pre-2015 amendments procedures, the Board rounded the amount of the increase to the nearest multiple of $1,000. Under the amended FCPIA Act, the Board could leave this adjustment in place because "during the 12 months preceding [the] required cost-of-living adjustment," the Board increased the CMP "by an amount greater than the amount of the adjustment required" by the new calculation.[34] Under these circumstances, the Board is "not required" to make the otherwise-required adjustment.[35] The Board has determined that it will not invoke this exception, which is not mandatory. First, the difference between the maximum set in 2015 and the maximum calculated above is immaterial. Second, the Board expects the federal banking regulators and the Consumer Financial Protection Bureau, which also have jurisdiction to enforce this CMP, to make their first adjustment of this CMP this year. By declining to invoke this exception, the Board will set the maximum at the same level as those agencies, which means that parties subject to this CMP will not face differing maximums based on which agency has jurisdiction. This exception does not apply to the other CMPs because the adjustments required in 2016 exceed those made in 2015.

Finally, the Board does not seek to invoke the discretionary limitation tied to "negative economic impact" or "social costs" posed by the otherwise-required increases. The statute and the OMB guidance do not define these terms. In applying these criteria, the Board has considered the overall amount of its CMP assessments and their likely impact on credit unions and individuals. NCUA historically has not assessed CMPs frequently. They have averaged 10.6 a year, or less than one a month, over the past quarter century. Furthermore, when NCUA has assessed CMPs it has not usually assessed them at or near the maximum levels allowed by law, which would be most likely to invoke economic impact or social cost concerns. The Board reviewed the 281 CMP orders that it has issued since 1990 and found that they total approximately $665,000, with an average (mean) value of approximately $2,400. The table at the end of this section summarizes this information. Based on historical trends, third tier CMPs appear likely to remain rare. Moreover, NCUA considers the size of the credit union in determining the amount of a CMP assessment. These factors indicate that the increased maximums will not cause a negative economic impact or social costs. Also, for most of its CMPs, the Board is required by statute to consider potential mitigating factors in determining a CMP assessment amount.[36] These considerations include the party's financial resources.[37] Interagency policy on CMP assessments includes this consideration.[38] This requirement applies to all of the CMPs that have maximum levels above $1,000,000. Thus, by their own terms, these CMPs account for the financial impact on the penalized party, which guards against negative economic impact or social costs. In addition, the Board is not required to assess at the new maximum amounts. Accordingly, the Board finds that the economic and social considerations under the statute do not warrant seeking to invoke this exception.

TABLE—NCUA CMP ASSESSMENTS (1990–2016)

Number of CMPs	281
Aggregate Amount of CMP Assessments	$665,208
Average (Mean) Amount of Assessments	$2,367

C. Effective Date for Adjusted Maximum Amounts

Finally, the 2015 amendments changed the effective date provision for adjusted CMPs. Before the 2015 amendments, the statute provided: "Any increase under this Act in a civil monetary penalty shall apply only to violations which occur after the date the increase takes effect."[39] Under that standard, the new maximums could only be assessed for violations that occurred after the date the adjustment took effect. The 2015 amendments changed this provision to read: "Any increase under this Act in a civil monetary penalty shall apply only to civil monetary penalties, including those whose associated violation predated such increase, which are assessed after the date the increase takes effect."[40] The OMB guidance notes this change.[41] The adjusted maximums now apply to CMPs assessed after the effective date of the adjustment, even if the associated violation occurred before the adjustment took effect. The Board is amending 12 CFR 747.1001(b) to reflect this change.

III. Regulatory Procedures

A. Interim Final Rule Under the Administrative Procedure Act

In the 2015 amendments to the FCPIA Act, Congress directed agencies to issue an interim final rule for the 2016 inflation adjustments.[42] OMB's guidance reiterated this requirement and stated that agencies therefore do not need to solicit comments prior to promulgating the rule.[43] The legislative directive provides an exception to the APA's ordinary notice-and-comment requirement.[44] In addition, the Board finds that notice-and-comment procedures would be impracticable and unnecessary under the APA because of: (1) the legislative directive to issue an interim final rule; (2) the largely ministerial and technical nature of the rule, which affords agencies limited

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[28] 28 U.S.C. 2461 note, § 3(2).

[31] 12 U.S.C. 1785(e)(3).

[32] These increases are set forth at 80 FR 57285–286 (Sept. 23, 2015).

[33] 80 FR 57285 (Sept. 23, 2015).

[34] Public Law 114–74, sec. 701(b)(1)(D), 129 Stat. 600, codified at 28 U.S.C. 2461 note.

[36] 12 U.S.C. 1786(k)(2)(G).

[37] 12 U.S.C. 1786(k)(2)(G)(i).

[38] Federal Financial Institutions Examination Council, Assessment of Civil Money Penalties, 63 FR 30226 (June 3, 1998).

[39] Public Law 104–134, § 31001(s)(1), 110 Stat. 1321–373 (Apr. 26, 1996).

[40] Public Law 114–74, 129 Stat. 600 (Nov. 2, 2015), codified at 28 U.S.C. 2461 note.

[41] Office of Mgmt. & Budget, Exec. Office of the President, OMB Memorandum No. M–16–06, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, at 4 (2016).

[42] Public Law 114–74, 129 Stat. 600 (Nov. 2, 2015), codified at 28 U.S.C. 2461 note.

[43] Office of Mgmt. & Budget, Exec. Office of the President, OMB Memorandum No. M–16–06, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, at 3 (2016).

[44] See 5 U.S.C. 559; Asiana Airlines v. Fed. Aviation Admin., 134 F.3d 393, 396–99 (D.C. Cir. 1998).

discretion in promulgating the rule; and (3) the statutory deadlines for publishing and making the interim final rule effective.[45] In these circumstances, the Board finds good cause to issue an interim final rule without issuing a notice of proposed rulemaking. Accordingly, this interim final rule is issued without prior notice. However, the Board invites comments on all aspects of the interim final rule. The interim final rule will become effective 30 days from publication in the **Federal Register**.[46] The Board will review and consider all comments before issuing a final rule.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act requires the Board to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small entities.[47] For purposes of this analysis, the Board considers small credit unions to be those having under $100 million in assets.[48] This interim final rule would not have a significant economic impact on a substantial number of small credit unions because it only affects the maximum amounts of CMPs that may be assessed in individual cases, which are not numerous and generally do not involve assessments at the maximum level. In addition, several of the CMPs are limited to a percentage of a credit union's assets. Finally, in assessing CMPs, the Board generally must consider a party's financial resources.[49] Because this interim final rule would affect few, if any, small entities, the Board certifies that the interim final rule will not have a significant economic impact on small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates a new paperwork burden on regulated entities or modifies an existing burden.[50] For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. This interim final rule adjusts the maximum amounts of certain CMPs that the Board may assess against individuals, entities, or credit unions but does not require any reporting or recordkeeping. Therefore, this interim final rule will not create new paperwork burdens or modify any existing paperwork burdens.

D. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This interim final rule adjusts the maximum amounts of certain CMPs that the Board may assess against individuals, entities, and federally insured credit unions, including state-chartered credit unions. However, the interim final rule does not create any new authority or alter the underlying statutory authorities that enable the Board to assess CMPs. Accordingly, this interim final rule will not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The Board has determined that this interim final rule does not constitute a policy that has federalism implications for purposes of the executive order.

E. Assessment of Federal Regulations and Policies on Families

The Board has determined that this interim final rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.[51]

F. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996[52] (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where the Board issues a final rule as defined by Section 551 of the Administrative Procedure Act.[53] The Board has submitted this interim final rule to OMB for it to determine whether it is a "major rule" within the meaning of the relevant sections of SBREFA.

List of Subjects in 12 CFR Part 747

Credit unions, Civil monetary penalties.

By the National Credit Union Administration Board on June 16, 2016.

Gerard S. Poliquin,

Secretary of the Board.

For the reasons stated above, the NCUA Board amends 12 CFR part 747 as follows:

PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, RULES OF PRACTICE AND PROCEDURE, AND INVESTIGATIONS

■ 1. The authority citation for Part 747 is revised to read as follows:

Authority: 12 U.S.C. 1766, 1782, 1784, 1785, 1786, 1787, 1790a, 1790d; 15 U.S.C. 1639e; 42 U.S.C. 4012a; Pub. L. 101–410; Pub. L. 104–134; Pub. L. 109–351; Pub. L. 114–74.

Subpart K—Inflation Adjustment of Civil Monetary Penalties

■ 2. Revise § 747.1001 to read as follows:

§ 747.1001 Adjustment of civil monetary penalties by the rate of inflation.

(a) NCUA is required by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note)) to adjust the maximum amount of each civil monetary penalty within its jurisdiction by the rate of inflation. The following chart displays those adjusted amounts, as calculated pursuant to the statute:

U.S. Code citation	CMP Description	New maximum amount
(1) 12 U.S.C. 1782(a)(3)	Inadvertent failure to submit a report or the inadvertent submission of a false or misleading report.	$3,787.
(2) 12 U.S.C. 1782(a)(3)	Non-inadvertent failure to submit a report or the non-inadvertent submission of a false or misleading report.	37,872.

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[45] 5 U.S.C. 553(b)(3)(B); see Mid-Tex Elec. Co-op., Inc. v. Fed. Energy Regulatory Comm'n, 822 F.2d 1123, 1133–34 (D.C. Cir. 1987).

[46] See 5 U.S.C. 553(d).

[47] 5 U.S.C. 603(a).

[48] Interpretive Ruling and Policy Statement 15–1, 80 FR 57512 (Sept. 24, 2015).

[49] 12 U.S.C. 1786(k)(2)(G)(i).

[50] 44 U.S.C. 3507(d); 5 CFR part 1320.

[51] Public Law 105–277, 112 Stat. 2681 (Oct. 21, 1998).

[52] Public Law 104–121, 110 Stat. 857 (Mar. 29, 1996).

[53] 5 U.S.C. 551.

U.S. Code citation	CMP Description	New maximum amount
(3) 12 U.S.C. 1782(a)(3)	Failure to submit a report or the submission of a false or misleading report done knowingly or with reckless disregard.	1,893,610 or 1 percent of the total assets of the credit union, whichever is less.
(4) 12 U.S.C. 1782(d)(2)(A)	Tier 1 CMP for inadvertent failure to submit certified statement of insured shares and charges due to NCUSIF, or inadvertent submission of false or misleading statement.	3,462.
(5) 12 U.S.C. 1782(d)(2)(B)	Tier 2 CMP for non-inadvertent failure to submit certified statement or submission of false or misleading statement.	34,620.
(6) 12 U.S.C. 1782(d)(2)(C)	Tier 3 CMP for failure to submit a certified statement or the submission of a false or misleading statement done knowingly or with reckless disregard.	1,730,990 or 1 percent of the total assets of the credit union, whichever is less.
(7) 12 U.S.C. 1785(a)(3)	Non-compliance with insurance logo requirements.	118.
(8) 12 U.S.C. 1785(e) (3)	Non-compliance with NCUA security requirements.	275.
(9) 12 U.S.C. 1786(k)(2)(A)	Tier 1 CMP for violations of law, regulation, and other orders or agreements.	9,468.
(10) 12 U.S.C. 1786(k)(2)(A)	Tier 2 CMP for violations of law, regulation, and other orders or agreements and for recklessly engaging in unsafe or unsound practices or breaches of fiduciary duty.	47,340.
(11) 12 U.S.C. 1786(k)(2)(A)	Tier 3 CMP for knowingly committing the violations under Tier 1 or 2 (natural person).	For a person other than an insured credit union: $1,893,610; For an insured credit union: $1,893,610 or 1 percent of the total assets of the credit union, whichever is less.
(12) 12 U.S.C. 1786(w)(5)(ii)	Non-compliance with senior examiner post-employment restrictions.	311,470.
(13) 15 U.S.C. 1639e(k)	Non-compliance with appraisal independence requirements.	First violation: $10,875 Subsequent violations: $21,749.
(14) 42 U.S.C. 4012a(f)(5)	Non-compliance with flood insurance requirements.	2,056.

(b) The adjusted amounts displayed in paragraph (a) of this section apply to civil monetary penalties that are assessed after the date the increase takes effect, including those whose associated violation or violations predate the increase.

[FR Doc. 2016–14719 Filed 6–20–16; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0219; Directorate Identifier 2010–NE–14–AD; Amendment 39–18556; AD 2016–12–07]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directive (AD) 2010–11–10 for all Turbomeca S.A. Astazou XIV B and XIV H turboshaft engines. AD 2010–11–10 requires inspection of certain third stage turbine wheels and removal of any damaged wheel. This AD requires expanding the population and frequency of repetitive inspections. This AD was prompted by a report of a third stage turbine wheel crack detected during engine overhaul. We are issuing this AD to prevent uncontained failure of the third stage turbine wheel, which could result in damage to the engine and damage to the helicopter.

DATES: This AD is effective July 26, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 26, 2016.

ADDRESSES: For service information identified in this final rule, contact Turbomeca S.A., 40220 Tarnos, France; phone: (33) 05 59 74 40 00; fax: (33) 05 59 74 45 15. You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2010–0219.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2010–0219; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information, regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Brian Kierstead, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7772, fax: 781–238–7199; email: *brian.kierstead@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2010–11–10, Amendment 39–16315 (75 FR 30270, June 1, 2010), ("AD 2010–11–10"). AD 2010–11–10 applied to the specified products. The NPRM published in the **Federal Register** on March 11, 2016 (81 FR 12843) ("the NPRM"). The NPRM proposed to continue to require inspection of certain third stage turbine wheels and removal of any damaged wheel. The NPRM also proposed to expand the population and frequency of repetitive inspections.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD as proposed.

Related Service Information Under 1 CFR Part 51

Turbomeca S.A. has issued Mandatory Service Bulletin (MSB) No. 283 72 0804, Version D, dated July 24, 2015. The MSB describes procedures for inspecting the third stage turbine wheels.

Turbomeca S.A. has issued Service Bulletin (SB) No. 283 72 0805, Version B, dated December 15, 2010. That SB describes optional terminating action for the inspections.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

We estimate that this AD affects seven engines installed on helicopters of U.S. registry. We also estimate that it would take about 5 hours per engine to comply with this AD. The average labor rate is $85 per hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $2,975.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2010–11–10, Amendment 39–16315 (75 FR 30270, June 1, 2010), ("AD 2010–11–10"), and adding the following new AD:

2016–12–07 Turbomeca S.A.: Amendment 39–18556; Docket No. FAA–2010–0219; Directorate Identifier 2010–NE–14–AD.

(a) Effective Date

This AD is effective July 26, 2016.

(b) Affected ADs

This AD supersedes AD 2010–11–10.

(c) Applicability

This AD applies to Turbomeca S.A., Astazou XIV B and XIV H turboshaft engines with the following part number (P/N) and serial number (S/N) third stage turbine wheels that incorporate modification AB 173 (Turbomeca S.A. Service Bulletin (SB) No. 283 72 0091) or modification AB 208 (Turbomeca S.A. SB No. 283 72 0117). This AD does not apply to third stage turbine wheels that incorporate Turbomeca S.A. SB No. 283 72 805.

(1) Third stage turbine wheels, P/N 0 265 25 700 0, all S/Ns;

(2) Third stage turbine wheels, P/N 0 265 25 702 0, all S/Ns;

(3) Third stage turbine wheels, P/N 0 265 25 706 0, all S/Ns;

(4) Third stage turbine wheels, P/N 0 265 25 705 0, with an S/N listed in Appendix 2.1 of Turbomeca S.A. Mandatory Service Bulletin (MSB) No. 283 72 0804, Version D, dated July 24, 2015.

(d) Unsafe Condition

This AD was prompted by a report of a third stage turbine wheel crack detected during engine overhaul. We are issuing this AD to prevent uncontained failure of the third stage turbine wheel, which could result in damage to the engine and damage to the helicopter.

(e) Compliance

Comply with this AD within the compliance times specified, unless already done.

(1) Perform a dye penetrant inspection of the third stage turbine wheel. Use paragraph 2.4.2.2 of Turbomeca S.A. MSB No. 283 72 0804, Version D, dated July 24, 2015, to do the inspection, as follows:

(i) Inspect third stage turbine wheels with 300 engine cycles (EC) or more accumulated since last inspection, or since new, or since last overhaul, or since repair, within 100 EC after the effective date of this AD.

(ii) Inspect third stage turbine wheels with less than 300 EC accumulated since last inspection, or since new, or since last overhaul, or since repair, within 400 EC since last inspection, or since new, or since last overhaul, or since repair.

(2) Repeat the inspection required by this AD within 400 EC since last inspection.

(3) Remove from service any third stage turbine wheels that fail the inspection required by this AD.

(f) Optional Terminating Action

Application of Turbomeca S.A. SB No. 283 72 0805, Version B, dated December 15, 2010 is terminating action for the inspections required by paragraphs (e)(1) and (2) of this AD.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(h) Related Information

(1) For more information about this AD, contact Brian Kierstead, Aerospace Engineer,

Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7772; fax: 781–238–7199; email: *brian.kierstead@faa.gov.*

(2) Refer to MCAI EASA AD 2015–0211, dated October 15, 2015, for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2010–0219.

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Turbomeca S.A. Mandatory Service Bulletin No. 283 72 0804, Version D, dated July 24, 2015.

(ii) Turbomeca S.A. Service Bulletin No. 283 72 0805, Version B, dated December 15, 2010.

(3) For Turbomeca S.A. service information identified in this AD, contact Turbomeca S.A., 40220 Tarnos, France; phone: (33) 05 59 74 40 00; fax: (33) 05 59 74 45 15.

(4) You may view this service information at FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(5) You may view this service information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on June 7, 2016.

Colleen M. D'Alessandro,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2016–14406 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–7263; Directorate Identifier 2016–NM–072–AD; Amendment 39–18564; AD 2016–12–15]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are superseding Airworthiness Directive (AD) 2016–07–30 for all Airbus Model A330–200, –200 Freighter, and –300 series airplanes, and all Airbus Model A340–200, –300, –500, and –600 series airplanes. For certain airplanes, AD 2016–07–30 required replacing certain Angle of Attack (AOA) sensors (probes) with certain new AOA sensors. For certain other airplanes, AD 2016–07–30 also required inspections and functional heat testing of certain AOA sensors for discrepancies, and replacement if necessary. This new AD requires the same actions as AD 2016–07–30. This new AD was prompted by a report of a typographical error in the regulatory text of AD 2016–07–30. We are issuing this AD to prevent erroneous AOA information and Alpha Protection (Alpha Prot) activation due to blocked AOA probes, which could result in a continuous nose-down command and consequent loss of control of the airplane.

DATES: This AD is effective July 6, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of May 18, 2016 (81 FR 21722, April 13, 2016).

We must receive comments on this AD by August 5, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7263.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7263; or in person at the Docket Management Facility between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

On March 26, 2016, we issued AD 2016–07–30, Amendment 39–18475 (81 FR 21722, April 13, 2016) ("AD 2016–07–30"), for all Airbus Model A330–200, –200 Freighter, and –300 series airplanes; and all Airbus Model A340–200, –300, –500, and –600 series airplanes. AD 2016–07–30 was prompted by a report of blockage of AOA probes during climb, leading to activation of the Alpha Prot while the Mach number increased. This activation could cause a continuous nose-down pitch rate that cannot be stopped with backward sidestick input, even in the full backward position. For certain airplanes, AD 2016–07–30 required replacing certain AOA sensors (probes) with certain new AOA sensors. For certain other airplanes, AD 2016–07–30 also required inspections and functional heat testing of certain AOA sensors for discrepancies, and replacement if necessary. We issued AD 2016–07–30 to prevent erroneous AOA information and Alpha Prot activation due to blocked AOA probes, which could result in a continuous nose-down command and loss of control of the airplane.

Since we issued AD 2016–07–30, we received a report of a typographical error in the regulatory text of AD 2016–07–30. Paragraph (l) of AD 2016–07–30 inadvertently referred to paragraph (g) and should have referred to paragraph (j), "Repetitive Inspections/Tests of Certain Thales AOA Sensors." The intent of paragraph (l) of AD 2016–07–30 was to give credit for doing the actions required by paragraph (j) of AD 2016–07–30 using earlier revisions of the service information specified in paragraph (j) of AD 2016–07–30. We have changed paragraph (l) of this AD to refer to paragraph (j) of this AD.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0134, dated July 8, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for all Airbus Model A330–200, –200 Freighter, and –300 series airplanes; and all Model A340–200, –300, –500, and –600 series airplanes. The MCAI states:

> An occurrence was reported where an Airbus A321 aeroplane encountered a blockage of two Angle of Attack (AOA) probes during climb, leading to activation of the Alpha Protection (Alpha Prot) while the Mach number increased. The flight crew managed to regain full control and the flight landed uneventfully. It was determined that the affected AOA probes are also fitted on A330 and A340 aeroplanes.
>
> When Alpha Prot is activated due to blocked AOA probes, the flight control laws order a continuous nose down pitch rate that, in a worst case scenario, cannot be stopped with backward sidestick inputs, even in the full backward position. If the Mach number increases during a nose down order, the AOA value of the Alpha Prot will continue to decrease. As a result, the flight control laws will continue to order a nose down pitch rate, even if the speed is above minimum selectable speed, known as VLS.
>
> This condition, if not corrected, could result in loss of control of the aeroplane.
>
> Investigation results indicated that aeroplanes equipped with certain UTC Aerospace (UTAS, formerly known as Goodrich) AOA sensors, or equipped with certain SEXTANT/THOMSON AOA sensors, appear to have a greater susceptibility to adverse environmental conditions than aeroplanes equipped with the latest Thales AOA sensor, Part Number (P/N) C16291AB, which was designed to improve AOA indication behaviour in heavy rain conditions.
>
> Having determined that replacement of these AOA sensors is necessary to achieve and maintain the required safety level of the aeroplane, EASA issued [an AD * * *], to require modification of the aeroplanes by replacement of the affected P/N sensors, and, after modification, prohibits (re-) installation of those P/N AOA sensors. That [EASA] AD also required repetitive detailed visual inspections (DET) and functional heating tests of certain Thales AOA sensors and provided an optional terminating action for those inspections.
>
> Since EASA AD 2015–0089 was issued, based on further analysis results, Airbus issued Operators Information Transmission (OIT) Ref. 999.0017/15 Revision 1, instructing operators to speed up the removal from service of UTAS P/N 0861ED2 AOA sensors.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA [AD * * *], which is superseded, but reduces the compliance times for aeroplanes with UTAS P/N 0861ED2 AOA sensors installed.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7263.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information:

- Service Bulletin A330–34–3215, Revision 03, dated July 23, 2015.
- Service Bulletin A330–34–3228, dated October 7, 2009.
- Service Bulletin A330–34–3315, dated March 26, 2015.
- Service Bulletin A340–34–4215, Revision 03, dated July 27, 2015.
- Service Bulletin A340–34–4234, dated October 7, 2009.
- Service Bulletin A340–34–4294, dated March 26, 2015.
- Service Bulletin A340–34–5062, Revision 02, dated July 24, 2015.
- Service Bulletin A340–34–5070, dated October 9, 2009.
- Service Bulletin A340–34–5105, dated March 26, 2015.

The service information describes procedures for replacing certain pitot probes with certain new pitot probes. The service information also describes procedures for inspections and functional heat testing of certain pitot probes, and replacement if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of these same type designs.

FAA's Justification and Determination of the Effective Date

We are superseding AD 2016–07–30 to correct a typographical error in the regulatory text. No other changes have been made to AD 2016–07–30. Therefore, we determined that notice and opportunity for public comment are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–7263; Directorate Identifier 2016–NM–072–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Costs of Compliance

We estimate that this AD affects 55 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement	5 work-hours × $85 per hour = $425.	$0	$425	$23,375
Inspection/test	3 work-hours × $85 per hour = $255.	0	$255 per inspection/test cycle	14,025

We have received no definitive data that will enable us to provide a cost estimate for the on-condition actions specified in this AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a "significant regulatory action" under Executive Order 12866;

2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive AD 2016–07–30, Amendment 39–18475 (81 FR 21722, April 13, 2016), and adding the following new AD:

2016–12–15 Airbus: Amendment 39–18564. Docket No. FAA–2016–7263; Directorate Identifier 2016–NM–072–AD.

(a) Effective Date

This AD is effective July 6, 2016.

(b) Affected ADs

This AD replaces AD 2016–07–30, Amendment 39–18475 (81 FR 21722, April 13, 2016) ("AD 2016–07–30").

(c) Applicability

This AD applies to the airplanes, certificated in any category, identified in paragraphs (c)(1) and (c)(2) of this AD, all manufacturer serial numbers.

(1) Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(2) Airbus Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Reason

This AD was prompted by a report of blockage of two Angle of Attack (AOA) probes during climb, leading to activation of the Alpha Protection (Alpha Prot) while the Mach number increased. This activation could cause a continuous nose-down pitch rate that cannot be stopped with backward sidestick input, even in the full backward position. We are issuing this AD to prevent erroneous AOA information and Alpha Prot activation due to blocked AOA probes, which could result in a continuous nose-down command and consequent loss of control of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Replacement of Certain UTC Aerospace (UTAS) AOA Sensors With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2016–07–30, with no changes. For airplanes on which any UTAS AOA sensor having part number (P/N) 0861ED or P/N 0861ED2 is installed: At the applicable time specified in paragraph (h) of this AD, replace all Captain and First Officer AOA sensors (probes) having P/N 0861ED or 0861ED2 with AOA sensors having Thales P/N C16291AB, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraph (g)(1), (g)(2), or (g)(3) of this AD.

(1) Airbus Service Bulletin A330–34–3315, dated March 26, 2015 (for Model A330 airplanes).

(2) Airbus Service Bulletin A340–34–4294, dated March 26, 2015 (for Model A340–200 and –300 airplanes).

(3) Airbus Service Bulletin A340–34–5105, dated March 26, 2015 (for Model A340–500 and –600 airplanes).

(h) Retained Compliance Times for the Requirements of Paragraph (g) of This AD With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2016–07–30, with no changes. Do the actions required by paragraph (g) of this AD at the applicable time specified in paragraph (h)(1) or (h)(2) of this AD.

(1) For airplanes with AOA sensors having P/N 0861ED: Within 22 months after May 18, 2016 (the effective date of AD 2016–07–30).

(2) For airplanes with AOA sensors having P/N 0861ED2: Within 7 months after May 18, 2016 (the effective date of AD 2016–07–30).

(i) Retained Replacement of Certain SEXTANT/THOMSON AOA Sensors With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2016–07–30, with no changes. For airplanes on which any SEXTANT/THOMSON AOA sensor having P/N 45150320 is installed: Within 22 months after May 18, 2016 (the effective date of AD 2016–07–30), replace all SEXTANT/THOMSON AOA sensors (probes) having P/N 45150320 with AOA sensors having Thales P/N C16291AB, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraph (i)(1) or (i)(2) of this AD.

(1) Airbus Service Bulletin A330–34–3228, dated October 7, 2009 (for Model A330 airplanes).

(2) Airbus Service Bulletin A340–34–4234, dated October 7, 2009 (for Model A340–200 and –300 airplanes).

(j) Retained Repetitive Inspections/Tests of Certain Thales AOA Sensors With No Changes

This paragraph restates the requirements of paragraph (j) of AD 2016–07–30, with no changes. For airplanes on which one or more Thales AOA sensor having P/N C16291AA is installed: Before the accumulation of 17,000 total flight hours on the AOA sensor since first installation on an airplane, or within 6 months after May 18, 2016 (the effective date of AD 2016–07–30), whichever occurs later; and thereafter at intervals not to exceed 3,800 flight hours; do a detailed inspection of the three AOA sensors at FINs 3FP1, 3FP2, and 3FP3 for discrepancies (*e.g.,* the vane of the sensor does not deice properly), and a functional heating test of each AOA sensor having P/N C16291AA, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraph (j)(1), (j)(2), or (j)(3) of this AD.

(1) Airbus Service Bulletin A330–34–3215, Revision 03, dated July 23, 2015 (for Model A330 airplanes).

(2) Airbus Service Bulletin A340–34–4215, Revision 03, dated July 27, 2015 (for Model A340–200 and –300 airplanes).

(3) Airbus Service Bulletin A340–34–5062, Revision 02, dated July 24, 2015 (for Model A340–500 and –600 airplanes).

(k) Retained Corrective Actions With No Changes

This paragraph restates the requirements of paragraph (k) of AD 2016–07–30, with no changes. If any discrepancy is found during any inspection required by paragraph (j) of this AD, or if any test is failed during the heating test required by paragraph (j) of this AD: Before further flight, replace all affected AOA sensors with sensors identified in paragraph (k)(1) or (k)(2) of this AD, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraph (j)(1), (j)(2), or (j)(3) of this AD.

(1) Replace with AOA sensors having Thales P/N C16291AA, on which the inspection and test required by paragraph (j) of this AD were passed.

(2) Replace with AOA sensors having Thales P/N C16291AB.

(l) Retained Credit for Previous Actions With a Change to a Paragraph Reference

This paragraph restates the credit provided in paragraph (l) of AD 2016–07–30, with a change to a paragraph reference. This paragraph provides credit for the actions required by paragraph (j) of this AD, if those actions were performed before May 18, 2016 (the effective date of AD 2016–07–30), using the applicable service information specified in paragraphs (l)(1), (l)(2), and (l)(3) of this AD, which are not incorporated by reference in this AD.

(1) Airbus Service Bulletin A330–34–3215, Revision 02, dated March 29, 2010. (2) Airbus Service Bulletin A340–34–4215, Revision 02, dated March 29, 2010.

(3) Airbus Service Bulletin A340–34–5062, Revision 01, dated March 29, 2010.

(m) Retained Airplanes Excluded From Certain Requirements With No Changes

This paragraph restates the exception specified in paragraph (m) of AD 2016–07–30, with no changes.

(1) The actions specified in paragraphs (g), (i), (j), and (k) of this AD are not required, provided that the conditions specified in paragraphs (m)(1)(i), (m)(1)(ii), and (m)(1)(iii) of this AD are met.

(i) Airbus Modification 58555 (installation of Thales P/N C16291AB AOA sensors) has been embodied in production.

(ii) Airbus Modification 46921 (installation of UTAS AOA sensors) has not been embodied in production.

(iii) No AOA sensor having SEXTANT/THOMSON P/N 45150320 or UTAS P/N 0861ED or P/N 0861ED2 has been installed on the airplane since date of issuance of the original airworthiness certificate or date of issuance of the original export certificate of airworthiness.

(2) The actions specified in paragraphs (g) and (i) of this AD are not required, provided that all conditions specified in paragraphs (m)(2)(i), (m)(2)(ii), and (m)(2)(iii) of this AD are met.

(i) Only AOA sensors with part numbers approved after the effective date of this AD have been installed.

(ii) The AOA sensor part number is approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

(iii) The installation is accomplished in accordance with airplane modification instructions approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; the EASA; or Airbus's EASA DOA.

(n) Retained Optional Terminating Modification With No Changes

This paragraph restates the optional action specified in paragraph (n) of AD 2016–07–30, with no changes. Replacement of all Thales AOA sensors having P/N C16291AA with Thales AOA sensors having P/N C16291AB, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraph (n)(1), (n)(2), or (n)(3) of this AD, terminates the repetitive inspections and functional heating tests required by paragraph (j) of this AD.

(1) Airbus Service Bulletin A330–34–3228, dated October 7, 2009 (for Model A330 airplanes).

(2) Airbus Service Bulletin A340–34–4234, dated October 7, 2009 (for Model A340–200 and –300 airplanes).

(3) Airbus Service Bulletin A340–34–5070, dated October 9, 2009 (for Model A340–500 and –600 airplanes).

(o) Retained Parts Installation Prohibitions With No Changes

This paragraph restates the requirements of paragraph (o) of AD 2016–07–30, with no changes.

(1) For airplanes on which only Thales P/N C16291AB AOA sensors are installed as of May 18, 2016 (the effective date of AD 2016–07–30): No person may install, on any airplane, a Thales AOA sensor having P/N C16291AA as of May 18, 2016.

(2) For airplanes on which the modification specified in paragraph (n) of this AD has been done: No person may install, on any airplane, a Thales AOA sensor having P/N C16291AA after accomplishing the specified modification.

(3) For airplanes on which Thales P/N C16291AA or P/N C16291AB AOA sensors are installed as of May 18, 2016 (the effective date of AD 2016–07–30): No person may install, on any airplane, a UTAS AOA sensor having P/N 0861ED or P/N 0861ED2, or a SEXTANT/THOMSON AOA sensor having P/N 45150320, as of May 18, 2016.

(4) For airplanes on which the replacement required by paragraph (i) of this AD has been done: No person may install, on any airplane, a UTAS AOA sensor having P/N 0861ED or P/N 0861ED2, or a SEXTANT/THOMSON AOA sensor having P/N 45150320, after accomplishing the replacement.

(5) For airplanes on which the replacement required by paragraph (g) of this AD has been done: No person may install, on any airplane, a UTAS AOA sensor having P/N 0861ED or P/N 0861ED2, or a SEXTANT/THOMSON AOA sensor having P/N 45150320, after accomplishing the replacement, except that a UTAS AOA sensor having P/N 0861ED may be installed in the standby position of that airplane.

(p) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(q) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0134, dated July 8, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7263.

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (r)(4) and (r)(5) of this AD.

(r) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this

paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on May 18, 2016 (81 FR 21722, April 13, 2016).

(i) Airbus Service Bulletin A330–34–3215, Revision 03, dated July 23, 2015.

(ii) Airbus Service Bulletin A330–34–3228, dated October 7, 2009.

(iii) Airbus Service Bulletin A330–34–3315, dated March 26, 2015.

(iv) Airbus Service Bulletin A340–34–4215, Revision 03, dated July 27, 2015.

(v) Airbus Service Bulletin A340–34–4234, dated October 7, 2009.

(vi) Airbus Service Bulletin A340–34–4294, dated March 26, 2015.

(vii) Airbus Service Bulletin A340–34–5062, Revision 02, dated July 24, 2015.

(viii) Airbus Service Bulletin A340–34–5070, dated October 9, 2009.

(ix) Airbus Service Bulletin A340–34–5105, dated March 26, 2015.

(4) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.*

(5) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(6) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Renton, Washington, on June 9, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–14317 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–0071; Airspace Docket No. 16–ASO–1]

Amendment of Class D and Class E Airspace Orlando, FL; and Amendment of Class E Airspace; Gainesville, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E Airspace at Gainesville Regional Airport, Gainesville, FL; and Orlando Executive Airport, Orlando, FL, by eliminating the Notice to Airmen (NOTAM) part time status of the Class E airspace designated as an extension at each airport. This is an administrative change to coincide with the FAA's aeronautical database. This action also updates the geographic coordinates of Orlando Executive Airport in existing Class D and E airspace.

DATES: Effective 0901 UTC, September 15, 2016. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/airtraffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class D and Class E airspace at the Florida airports listed in this final rule.

History

In a review of the airspace, the FAA found the airspace description for Gainesville Regional Airport, Gainesville, FL, and Orlando Executive Airport, Orlando, FL, as published in FAA Order 7400.9Z, Airspace Designations and Reporting Points, does not match the FAA's charting information. This is an administrative change to coincide with the FAA's aeronautical database.

Class D and Class E airspace designations are published in paragraphs 5000, 6002, and 6004, respectively, of FAA Order 7400.9Z dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR part 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by eliminating the NOTAM information that reads "This Class E airspace area is effective during the specific dates and time established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory" from the regulatory text of the Class E airspace designated as an extension to Class D, at Gainesville Regional Airport, Gainesville, FL; and Orlando Executive Airport, Orlando, FL.

This is an administrative change amending the description for the above Florida airports, to be in concert with the FAA's aeronautical database, and does not affect the boundaries, or operating requirements of the airspace, therefore, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. The geographic coordinates of Orlando Executive Airport are adjusted under Class D and Class E airspace, to coincide with the FAAs aeronautical database.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120, E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, effective September 15, 2015, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D Orlando, FL [Amended]

Orlando Executive Airport, FL
(Lat. 28°32′44″ N., long. 81°19′59″ W.)

That airspace extending upward from the surface, to but not including 1,600 feet MSL, within a 4.2-mile radius of Orlando Executive Airport, excluding that portion within the Orlando, FL, Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002 Class E Surface Area Airspace.

* * * * *

ASO FL E2 Orlando, FL [Amended]

Orlando Executive Airport, FL
(Lat. 28°32′44″ N., long. 81°19′59″ W.)

Within a 4.2-mile radius of Orlando Executive Airport excluding that portion within the Orlando, FL Class B airspace area.

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

ASO FL E4 Gainesville, FL [Amended]

Gainesville Regional Airport, FL
(Lat. 29°41′24″ N., long. 82°16′18″ W.)
Gators VORTAC
(Lat. 29°41′32″ N., long. 82°16′23″ W.)

That airspace extending upward from the surface within 2.4 miles each side of the Gators VORTAC 53° radial, extending from the 4.9-mile radius of Gainesville Regional Airport to 7 miles northeast of the VORTAC.

* * * * *

ASO FL E4 Orlando, FL [Amended]

Orlando Executive Airport, FL
(Lat. 28°32′44″ N., long. 81°19′59″ W.)
Orlando VORTAC
(Lat. 28°32′34″ N., long. 81°20′06″ W.)

That airspace extending upward from the surface within 3.6 miles each side of the Orlando VORTAC 254° radial extending from the 4.2-mile radius of Orlando Executive Airport, to 8.1 miles west of the Orlando VORTAC; excluding that portion within the Orlando, FL, Class B airspace area.

Issued in College Park, Georgia, on June 8, 2016.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2016–14373 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–7203; Airspace Docket No. 15–ASO–14]

Establishment of Class D Airspace: Destin, FL; Duke Field, Eglin AFB, FL; Revocation of Class D Airspace; Eglin AF Aux No 3 Duke Field, FL; and Amendment of Class D and E Airspace; Eglin Air Force Base, FL; Eglin Hurlburt Field, FL; and Crestview, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace at Destin, FL, providing the controlled airspace required for the Air Traffic Control Tower at Destin Executive Airport, (formerly Destin-Fort Walton Beach Airport). Additionally, this action removes Eglin AF Aux No 3 Duke Field from the Class D designation, and establishes Duke Field, Eglin AFB, FL in its place. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at the airport. This action also changes the existing Class D airspace designation at Duke Field, Eglin Air Force Base (AFB), FL, and adjusts the geographic coordinates of Eglin AFB, Destin Executive Airport, Duke Field, and Hurlburt Field, to stay in concert with the FAA's database.

DATES: Effective 0901 UTC, July 21, 2016. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9Z and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/airtraffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html*. FAA Order 7400.9Z, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class D airspace at Destin Executive Airport, Destin, FL, and Duke Field Eglin AFB, FL; and removes Class D airspace at Eglin AF Aux No 3 Duke Field; and amends Class D and Class E airspace at Eglin Air Force Base, FL.

History

On March 3, 2016, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class D airspace at Destin Executive Airport, Destin, FL, and Duke Field Eglin AFB, FL; and remove Class D airspace at Eglin AF Aux No 3 Duke Field; and amend Class D and Class E airspace at Eglin Air Force Base, FL (81 FR 11136). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and E airspace designations are published in paragraphs 5000, 6002, and 6005, respectively, of FAA Order 7400.9Z dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class D airspace up to and including 1,600 feet within a 4.4 mile radius of Destin Executive Airport, Destin, FL, providing the controlled airspace required to support the Air Traffic Control Tower. Additionally, this action removes the Class D designator for Eglin AF Aux No 3 Duke Field, FL, and replaces it with Duke Field, Eglin AFB, FL. This action also adjusts the geographic coordinates in Class D airspace, Class E surface area airspace, and Class E airspace extending upward from 700 feet above the surface for Eglin Air Force Base, FL, Destin Executive Airport, Duke Field, and Hurlburt Field, to stay in concert with the FAA's database. Also, Destin-Fort Walton Beach Airport is changed to Destin Executive Airport.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, effective September 15, 2015, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D Destin, FL [New]

Destin Executive Airport, FL
(Lat. 30°24′00″ N., long. 86°28′17″ W.)
Eglin Air Force Base, FL
(Lat. 30°29′00″ N., long. 86°31′34″ W.)

That airspace extending upward from the surface to and including 1,600 feet MSL within a 4.4-mile radius of Destin Executive Airport, excluding that portion north of the triangle beginning at lat. 30°23′39″ N., long. 86°23′13″ W., to lat. 30°27′00″ N., long. 86°30′19″ W., to lat. 30°20′54″ N., long. 86°31′56″ W. This Class D airspace is effective during the operating hours of the Destin Executive Airport tower published in the Airport/Facility Directory. The airspace is incorporated into the Eglin Air Force Base, FL Class D airspace when the tower is closed.

ASO FL D Eglin Air Force Base, FL [Amended]

Eglin Air Force Base, FL
(Lat. 30°29′00″ N., long. 86°31′34″ W.)
Destin Executive Airport
(Lat. 30°24′00″ N., long. 86°28′17″ W.)
Duke Field
(Lat. 30°38′55″ N., long. 86°31′19″ W.)
Hurlburt Field
(Lat. 30°25′44″ N., long. 86°41′20″ W.)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 5.5-mile radius of Eglin AFB, and within a 4.4-mile radius of Destin Executive Airport, excluding the portion north of a line connecting the 2 points of intersection within a 5.2-mile radius centered on Duke Field; excluding the portion southwest of a line connecting the 2 points of intersection within a 5.3-mile radius of Hurlburt Field; excluding a portion east of a line beginning at lat. 30°30′43″ N., long. 86°26′21″ W. extending east to the 5.5-mile radius of Eglin AFB. When the tower at Destin Executive Airport is operational, it excludes Destin's Class D airspace defined as that airspace south of the triangle beginning at lat. 30°23′39″ N., long. 86°23′13″ W. to lat. 30°27′00″ N., long. 86°30′19″ W. to lat. 30°20′54″ N., long. 86°31′56″ W. from the surface to and including 1,600 feet MSL.

ASO FL D Eglin AF Aux No 3 Duke Field, FL [Removed]

ASO FL D Duke Field Eglin AFB, FL [New]

Duke Field, FL
(Lat. 30°38′55 N., long. 86°31′19″ W.)
Crestview, Bob Sikes Airport
(Lat. 30°46′44″ N., long. 86°31′20″ W.)
Eglin AFB
(Lat. 30°29′00″ N., long. 86°31′34″ W.)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 5.2-mile radius of Duke Field; excluding the portion north of a line connecting the 2 points of intersection with a 4.2-mile radius circle centered on Bob Sikes Airport; excluding the portion south of a line connecting the 2 points of intersection with a 5.5-mile radius circle centered on Eglin AFB. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

ASO FL D Eglin Hurlburt Field, FL [Amended]

Eglin, Hurlburt Field, FL
(Lat. 30°25′44″ N., long. 86°41′20″ W.)
Eglin AFB
(Lat. 30°29′00″ N., long. 86°31′34″ W.)

That airspace extending upward from the surface, to and including 2,500 feet MSL within a 5.3-mile radius of Hurlburt Field; excluding the portion northeast of a line connecting the 2 points of intersection with a 5.5-mile radius circle centered on Eglin AFB. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002 Class E Surface Area Airspace.

* * * * *

ASO FL E2 Crestview, FL [Amended]

Bob Sikes Airport, FL
(Lat. 30°46′44″ N., long. 86°31′20″ W.)
Duke Field, Eglin AFB
(Lat. 30°38′55″ N., long. 86°31′19″ W.)

Within a 4.2-mile radius of Bob Sikes Airport; excluding the portion south of a line connecting the 2 points of intersection with a 5.2-mile radius circle centered on Duke Field. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO FL E5 Eglin Air Force Base, FL [Amended]

Eglin Air Force Base, FL
(Lat. 30°29′00″ N., long. 86°31′34″ W.)
Destin Executive Airport
(Lat. 30°24′00″ N., long. 86°28′17″ W.)
Duke Field
(Lat. 30°38′55″ N., long. 86°31′19″ W.)
Hurlburt Field
(Lat. 30°25′44″ N., long. 86°41′20″ W.)
Fort Walton Beach Airport
(Lat. 30°24′23″ N., long. 86°49′45″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Eglin Air Force Base, and within a 7.8-mile radius of Destin Executive Airport, and within a 7-mile radius of Duke Field, and within a 7-mile radius of Hurlburt Field, excluding a 1.5-mile radius of Fort Walton Beach Airport.

Issued in College Park, Georgia, on June 9, 2016.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2016–14377 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. FAA–2007–29320]

Operating Limitations at John F. Kennedy International Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of amendment to order.

SUMMARY: This action amends the Order Limiting Operations at John F. Kennedy International Airport (JFK) published on January 18, 2008, as amended, and most recently extended on May 24, 2016. This action replaces an obsolete statement concerning the Order's expiration date with the correct expiration date of October 27, 2018. The Order remains effective until October 27, 2018.

DATES: This amendment is effective on June 21, 2016.

ADDRESSES: Requests may be submitted by mail to Slot Administration Office, AGC–240, Office of the Chief Counsel, 800 Independence Avenue SW., Washington, DC 20591, or by email to: *7-awa-slotadmin@faa.gov.*

FOR FURTHER INFORMATION CONTACT: For questions concerning this Order contact: Susan Pfingstler, System Operations Services, Air Traffic Organization, Federal Aviation Administration, 600 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–6462; email *susan.pfingstler@faa.gov.*

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You may obtain an electronic copy using the Internet by:

(1) Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);

(2) Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/;* or

(3) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html.*

You also may obtain a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

Background

From 1968, the FAA limited the number of arrivals and departures at JFK during the peak afternoon demand period (corresponding to transatlantic arrival and departure banks) through the implementation of the High Density Rule (HDR).[1] By statute enacted in April 2000, the HDR's applicability to JFK operations terminated as of January 1, 2007.[2] Using AIR–21 exemptions and the HDR phase-out, U.S. air carriers serving JFK significantly increased their domestic scheduled operations throughout the day. This increase in operations resulted in significant congestion and delays that negatively impacted the National Airspace System (NAS). In January 2008, the FAA placed temporary limits on scheduled operations at JFK to mitigate persistent congestion and delays at the airport.[3] With a temporary schedule limit order in place, the FAA proposed a long-term rule that would limit the number of scheduled and unscheduled operations at JFK.[4] On October 10, 2008, the FAA published the Congestion Management Rule for John F. Kennedy International Airport and Newark Liberty International Airport, which would have become effective on December 9, 2008.[5] That rule was stayed by the U.S. Court of Appeals for the District of Columbia Circuit and subsequently rescinded by the FAA.[6] The FAA extended the January 18, 2008, Order placing temporary limits on scheduled operations at JFK on October 7, 2009,[7] April 4, 2011,[8] May 14, 2013,[9] March 26, 2014,[10] and May 24, 2016.[11]

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[1] 33 FR 17896 (Dec. 3, 1968). The FAA codified the rules for operating at high density traffic airports in 14 CFR part 93, subpart K. The HDR required carriers to hold a reservation, which came to be known as a "slot," for each takeoff or landing under instrument flight rules at the high density traffic airports.

[2] Aviation Investment and Reform Act for the 21st Century (AIR–21), Public Law 106–181 (Apr. 5, 2000), 49 U.S.C. 41715(a)(2).

[3] 73 FR 3510 (Jan. 18, 2008), as amended by 73 FR 8737 (Feb. 14, 2008).

Under the Order, as amended, the FAA (1) maintains the current hourly limits on 81 scheduled operations at JFK during the peak period; (2) imposes an 80 percent minimum usage requirement for Operating Authorizations (OAs) with defined exceptions; (3) provides a mechanism for withdrawal of OAs for FAA operational reasons; (4) establishes procedures to allocate withdrawn, surrendered, or unallocated OAs; and (5) allows for trades and leases of OAs for consideration for the duration of the Order.

The reasons for issuing the Order have not changed appreciably since it was implemented. Demand for access to JFK remains high and the average weekday hourly flights in the busiest morning, afternoon, and evening hours are generally consistent with the limits under this Order. The FAA has reviewed the on-time and other performance metrics in the peak May to August 2014 and 2015 months and found continuing improvements relative to the same period in 2007, even with runway construction at JFK in 2015.[12] Without the operational limitations imposed by this Order, the FAA expects severe congestion-related delays would occur at JFK and at other airports throughout the NAS. The FAA will continue to monitor performance and runway capacity at JFK to determine if changes are warranted.

On January 8, 2015, the DOT and FAA published a notice of proposed rulemaking "Slot Management and Transparency at LaGuardia Airport, John F. Kennedy International Airport, and Newark Liberty International Airport."[13] The DOT and FAA proposed to replace the Orders limiting scheduled operations at JFK, limiting scheduled operations at Newark Liberty International Airport (EWR), and limiting scheduled and unscheduled operations at LaGuardia Airport (LGA) with a more permanent system for managing slots. The NPRM included certain proposed changes to how slots are currently managed in the New York City area in order to increase transparency and address issues considering anti-competitive behavior. Since the FAA and DOT first initiated this rulemaking effort there have been significant changes in circumstances affecting New York City area airports, including changes in competitive effects from ongoing industry consolidation, slot utilization and transfer behavior, and actual operational performance at the three airports. Furthermore, the FAA recently announced that slot controls are no longer needed at EWR (81 FR 19861). In light of the changes in market conditions and operational performance at the New York City area airports, the Department is withdrawing the NPRM by **Federal Register** notice published May 16, 2016 (81 FR 30218), to allow for further evaluation of these changes. Accordingly, the FAA has concluded it is necessary to extend the expiration date of this Order until October 27, 2018. This expiration date coincides with the extended expiration date for the Order limiting scheduled operations at LGA (81 FR 33126).[14] No amendments other than correcting the expiration date in paragraph 3 have been made to this Order.

The FAA finds that notice and comment procedures under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. The FAA further finds that good cause exists to make this Order effective in less than 30 days.

The Amended Order

The Order, as amended, is recited below in its entirety.

1. This Order assigns operating authority to conduct an arrival or a departure at JFK during the affected hours to the U.S. air carrier or foreign air carrier identified in the appendix to this Order. The FAA will not assign operating authority under this Order to any person or entity other than a certificated U.S. or foreign air carrier with appropriate economic authority and FAA operating authority under 14 CFR part 121, 129, or 135. This Order applies to the following:

a. All U.S. air carriers and foreign air carriers conducting scheduled operations at JFK as of the date of this Order, any U.S. air carrier or foreign air carrier that operates under the same designator code as such a carrier, and any air carrier or foreign-flag carrier that has or enters into a codeshare agreement with such a carrier.

b. All U.S. air carriers or foreign air carriers initiating scheduled or regularly conducted commercial service to JFK while this Order is in effect.

c. The Chief Counsel of the FAA, in consultation with the Vice President, System Operations Services, is the final decisionmaker for determinations under this Order.

2. This Order governs scheduled arrivals and departures at JFK from 6 a.m. through 10:59 p.m., Eastern Time, Sunday through Saturday.

3. This Order takes effect on March 30, 2008, and will expire October 27, 2018.

4. Under the authority provided to the Secretary of Transportation and the FAA Administrator by 49 U.S.C. 40101, 40103 and 40113, we hereby order that:

a. No U.S. air carrier or foreign air carrier initiating or conducting scheduled or regularly conducted commercial service at JFK may conduct such operations without an Operating Authorization assigned by the FAA.

b. Except as provided in the appendix to this Order, scheduled U.S. air carrier and foreign air carrier arrivals and departures will not exceed 81 per hour from 6 a.m. through 10:59 p.m., Eastern Time.

c. The Administrator may change the limits if he determines that capacity exists to accommodate additional operations without a significant increase in delays.

5. For administrative tracking purposes only, the FAA will assign an identification number to each Operating Authorization.

6. A carrier holding an Operating Authorization may request the Administrator's approval to move any arrival or departure scheduled from 6 a.m. through 10:59 p.m. to another half hour within that period. Except as provided in paragraph seven, the carrier must receive the written approval of the Administrator, or his delegate, prior to conducting any scheduled arrival or departure that is not listed in the appendix to this Order. All requests to move an allocated Operating Authorization must be submitted to the FAA Slot Administration Office, facsimile (202) 267–7277 or email *7-*

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[4] 73 FR 29626 (May 21, 2008); Docket FAA–2008–0517.

[5] 73 FR 60544, amended by 73 FR 66516 (Nov. 10, 2008).

[6] 74 FR 52134 (Oct. 9, 2009).

[7] 74 FR 51650.

[8] 76 FR 18620.

[9] 78 FR 28276.

[10] 79 FR 16854.

[11] 81 FR 32636.

[12] Docket No. FAA–2007–25320 includes a copy of the MITRE analysis completed for the FAA.

[13] 80 FR 1274.

[14] The FAA notes that the Order limiting scheduled operations at EWR will expire October 29, 2016; beginning on October 30, 2016, EWR is designated a Level 2 schedule-facilitated airport consistent with the FAA's action published in the **Federal Register** on April 6, 2016. *See* 81 FR 19861.

AWA-Slotadmin@faa.gov, and must come from a designated representative of the carrier. If the FAA cannot approve a carrier's request to move a scheduled arrival or departure, the carrier may then apply for a trade in accordance with paragraph seven.

7. For the duration of this Order, a carrier may enter into a lease or trade of an Operating Authorization to another carrier for any consideration. Notice of a trade or lease under this paragraph must be submitted in writing to the FAA Slot Administration Office, facsimile (202) 267–7277 or email *7-AWASlotadmin@faa.gov,* and must come from a designated representative of each carrier. The FAA must confirm and approve these transactions in writing prior to the effective date of the transaction. The FAA will approve transfers between carriers under the same marketing control up to five business days after the actual operation, but only to accommodate operational disruptions that occur on the same day of the scheduled operation. The FAA's approval of a trade or lease does not constitute a commitment by the FAA to grant the associated historical rights to any operator in the event that slot controls continue at JFK after this order expires.

8. A carrier may not buy, sell, trade, or transfer an Operating Authorization, except as described in paragraph seven.

9. Historical rights to Operating Authorizations and withdrawal of those rights due to insufficient usage will be determined on a seasonal basis and in accordance with the schedule approved by the FAA prior to the commencement of the applicable season.

a. For each day of the week that the FAA has approved an operating schedule, any Operating Authorization not used at least 80% of the time over the time-frame authorized by the FAA under this paragraph will be withdrawn by the FAA for the next applicable season except:

i. The FAA will treat as used any Operating Authorization held by a carrier on Thanksgiving Day, the Friday following Thanksgiving Day, and the period from December 24 through the first Saturday in January.

ii. The Administrator of the FAA may waive the 80% usage requirement in the event of a highly unusual and unpredictable condition which is beyond the control of the carrier and which affects carrier operations for a period of five consecutive days or more.

b. Each carrier holding an Operating Authorization must forward in writing to the FAA Slot Administration Office a list of all Operating Authorizations held by the carrier along with a listing of the Operating Authorizations and:

i. The dates within each applicable season it intends to commence and complete operations.

A. For each winter scheduling season, the report must be received by the FAA no later than August 15 during the preceding summer.

B. For each summer scheduling season, the report must be received by the FAA no later than January 15 during the preceding winter.

ii. The completed operations for each day of the applicable scheduling season:

A. No later than September 1 for the summer scheduling season.

B. No later than January 15 for the winter scheduling season.

iii. The completed operations for each day of the scheduling season within 30 days after the last day of the applicable scheduling season.

10. In the event that a carrier surrenders to the FAA any Operating Authorization assigned to it under this Order or if there are unallocated Operating Authorizations, the FAA will determine whether the Operating Authorizations should be reallocated. The FAA may temporarily allocate an Operating Authorization at its discretion. Such temporary allocations will not be entitled to historical status for the next applicable scheduling season under paragraph 9.

11. If the FAA determines that an involuntary reduction in the number of allocated Operating Authorizations is required to meet operational needs, such as reduced airport capacity, the FAA will conduct a weighted lottery to withdraw Operating Authorizations to meet a reduced hourly or half-hourly limit for scheduled operations. The FAA will provide at least 45 days' notice unless otherwise required by operational needs. Any Operating Authorization that is withdrawn or temporarily suspended will, if reallocated, be reallocated to the carrier from which it was taken, provided that the carrier continues to operate scheduled service at JFK.

12. The FAA will enforce this Order through an enforcement action seeking a civil penalty under 49 U.S.C. 46301(a). A carrier that is not a small business as defined in the Small Business Act, 15 U.S.C. 632, will be liable for a civil penalty of up to $25,000 for every day that it violates the limits set forth in this Order. A carrier that is a small business as defined in the Small Business Act will be liable for a civil penalty of up to $10,000 for every day that it violates the limits set forth in this Order. The FAA also could file a civil action in U.S. District Court, under 49 U.S.C. 46106, 46107, seeking to enjoin any air carrier from violating the terms of this Order.

13. The FAA may modify or withdraw any provision in this Order on its own or on application by any carrier for good cause shown.

Issued in Washington, DC on June 15, 2016.

Daniel E. Smiley,

Vice President, System Operations Services.

[FR Doc. 2016–14631 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 160503391–6391–01]

RIN 0694–AG96

Revisions to the Unverified List (UVL)

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) by adding thirty-six (36) persons to the Unverified List (the "Unverified List" or UVL), and adding an additional address for one (1) person currently listed on the UVL. The 36 persons are being added to the UVL on the basis that BIS could not verify their *bona fides* because an end-use check could not be completed satisfactorily for reasons outside the U.S. Government's control. A new address is added for one current UVL person as BIS has determined that this person has changed its registered address.

DATES: *Effective date:* This rule is effective: June 21, 2016.

FOR FURTHER INFORMATION CONTACT: Kevin Kurland, Director, Office of Enforcement Analysis, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–4255 or by email at *UVLRequest@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Unverified List, found in Supplement No. 6 to Part 744 to the EAR, contains the names and addresses of foreign persons who are or have been parties to a transaction, as that term is described in § 748.5 of the EAR, involving the export, reexport, or transfer (in-country) of items subject to the EAR, and whose *bona fides* BIS has been unable to verify through an end-use check. BIS may add persons to the

UVL when BIS or federal officials acting on BIS's behalf have been unable to verify a foreign person's *bona fides* (*i.e.,* legitimacy and reliability relating to the end use and end user of items subject to the EAR) because an end-use check, such as a pre-license check (PLC) or a post-shipment verification (PSV), cannot be completed satisfactorily for such purposes for reasons outside the U.S. Government's control.

End-use checks cannot be completed for a number of reasons, including reasons unrelated to the cooperation of the foreign party subject to the end-use check. For example, BIS sometimes initiates end-use checks and cannot find a foreign party at the address indicated on export documents, and cannot locate the party by telephone or email. Additionally, BIS sometimes is unable to conduct end-use checks when host government agencies do not respond to requests to conduct end-use checks, are prevented from scheduling such checks by a party to the transaction other than the foreign party that is the proposed subject of the end-use check or refuse to schedule them in a timely manner. Under these circumstances, although BIS has an interest in informing the public of its inability to verify the foreign party's *bona fides,* there may not be sufficient information to add the foreign persons at issue to the Entity List under § 744.11 of the EAR (Criteria for revising the Entity List). In such circumstances, BIS may add the foreign persons to the UVL.

Furthermore, BIS sometimes conducts end-use checks but cannot verify the *bona fides* of a foreign party. For example, BIS may be unable to verify *bona fides* if during the conduct of an end-use check a recipient of items subject to the EAR is unable to produce those items for visual inspection or provide sufficient documentation or other evidence to confirm the disposition of those items. The inability of foreign persons subject to end-use checks to demonstrate their *bona fides* raises concerns about the suitability of such persons as participants in future exports, reexports, or transfers (in-country) of items subject to the EAR and indicates a risk that such items may be diverted to prohibited end uses and/or end users. However, BIS may not have sufficient information to establish that such persons are involved in activities described in part 744 of the EAR, preventing the placement of the persons on the Entity List. In such circumstances, the foreign persons may be added to the Unverified List.

As provided in § 740.2(a)(17) of the EAR, the use of license exceptions for exports, reexports, and transfers (in-country) involving a party or parties to the transaction who are listed on the UVL is suspended. Additionally, under § 744.15(b) of the EAR, there is a requirement for exporters, reexporters, and transferors to obtain (and keep a record of) a UVL statement from a party or parties to the transaction who are listed on the UVL before proceeding with exports, reexports, and transfers (in-country) to such persons, when the exports, reexports and transfers (in-country) are not subject to a license requirement.

Requests for removal of a UVL entry must be made in accordance with § 744.15(d) of the EAR. Decisions regarding the removal or modification of UVL listings will be made by the Deputy Assistant Secretary for Export Enforcement, based on a demonstration by the listed person of its *bona fides.*

Changes to the EAR

Supplement No. 6 to Part 744 ("the Unverified List" or "UVL")

This rule adds thirty-six (36) persons to the UVL by amending Supplement No. 6 to Part 744 of the EAR to include their names and addresses. BIS adds these persons in accordance with the criteria for revising the UVL set forth in § 744.15(c) of the EAR. The new entries consist of one person located in Finland, twenty-five persons located in Hong Kong, one person located in India, one person located in Latvia, one person located in Singapore, one person located in Switzerland, and six persons located in the United Arab Emirates. Each listing is grouped within the UVL by country with each party's name(s) listed in alphabetical order under the country; each entry includes available alias(es) and address(es), as well as the **Federal Register** citation and the date the person was added to the UVL. The UVL is included in the Consolidated Screening List, available at *www.export.gov.*

This rule also adds a new address for a current UVL person in Hong Kong: Hong Kong U.Star Electronics Technology Co., Ltd. BIS has determined that this person changed its registered address from that originally included in the UVL entry.

Savings Clause

Shipments (1) removed from license exception eligibility or that are now subject to requirements in § 744.15 of the EAR as a result of this regulatory action, (2) eligible for export, reexport, or transfer (in-country) without a license before this regulatory action, and (3) on dock for loading, on lighter, laden aboard an exporting carrier, or en route aboard a carrier to a port of export, on June 21, 2016, pursuant to actual orders, may proceed to that UVL-listed person under the previous license exception eligibility or without a license, so long as the items have been exported from the United States, reexported or transferred (in-country) before July 21, 2016. Any such items not actually exported, reexported or transferred (in-country) before midnight on July 21, 2016 are subject to the requirements in § 744.15 of the EAR in accordance with this regulation.

Export Administration Act

Since August 21, 2001, the Export Administration Act of 1979, as amended, has been in lapse. However, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended by the Notice of August 7, 2015 (80 FR 48233 (Aug. 11, 2015) has continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under section 3(f) of Executive Order 12866.

2. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable to this rule, which is adding 36 persons and updating the address of 1 Hong Kong listed company on the UVL, because this regulation involves military or foreign affairs under 5 U.S.C. 553(a)(1). BIS implements this rule to protect U.S. national security or foreign policy interests by requiring a license or, where no license is required, a UVL statement for items being exported, reexported, or transferred (in

country) involving a party or parties to the transaction who are listed on the UVL. If this rule were delayed to allow for notice and comment and a delay in effective date, the entities being added to the UVL by this action and the entity operating at previously unlisted addresses would continue to be able to receive items without additional oversight by BIS and to conduct activities contrary to the national security or foreign policy interests of the United States. In addition, publishing a proposed rule would give these parties notice of the U.S. Government's intention to place them on the UVL or amend their current entry on the UVL, and create an incentive for these persons to accelerate receiving items subject to the EAR in furtherance of activities contrary to the national security or foreign policy interests of the United States, and/or take steps to set up additional aliases, change addresses, and other measures to try to limit the impact of the listing once a final rule was published.

Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

3. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under the following control numbers: 0694–0088, 0694–0122, 0694–0134, and 0694–0137.

This rule slightly increases public burden in a collection of information approved by OMB under control number 0694–0088, which authorizes, among other things, export license applications. The removal of license exceptions for listed persons on the Unverified List will result in increased license applications being submitted to BIS by exporters. Total burden hours associated with the Paperwork Reduction Act and OMB control number 0694–0088 are expected to increase minimally, as the suspension of license exceptions will only affect transactions involving persons listed on the Unverified List and not all export transactions. Because license exceptions are restricted from use, this rule decreases public burden in a collection of information approved by OMB under control number 0694–0137 minimally, as this will only affect specific individual listed persons. The increased burden under 0694–0088 is reciprocal to the decrease of burden under 0694–0137, and results in no change of burden to the public. This rule also increases public burden in a collection of information under OMB control number 0694–0122, as a result of the exchange of UVL statements between private parties, and under OMB control number 0694–0134, as a result of appeals from persons listed on the UVL for removal of their listing. The total increase in burden hours associated with both of these collections is expected to be minimal, as they involve a limited number of persons listed on the UVL.

4. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

Part 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015); Notice of September 18, 2015, 80 FR 57281 (September 22, 2015); Notice of November 12, 2015, 80 FR 70667 (November 13, 2015); Notice of January 20, 2016, 81 FR 3937 (January 22, 2016).

■ 2. Supplement No. 6 to Part 744 is amended by:

■ a. Adding one entry for "Finland";

■ b. Adding 25 entries, in alphabetical order, under "Hong Kong";

■ c. Revising the entry for "Hong Kong U.Star Electronics Technology Co., Ltd" under "Hong Kong";

■ d. Adding one entry for "India";

■ e. Adding one entry for "Latvia";

■ f. Adding one entry for "Singapore";

■ g. Adding one entry for "Switzerland"; and

■ h. Adding 6 entries, in alphabetical order, under the "United Arab Emirates".

The additions and revisions read as follows:

SUPPLEMENT NO. 6 TO PART 744—UNVERIFIED LIST

* * * * *

Country	Listed person and address	**Federal Register** citation and date of publication
* *	* *	* * *
FINLAND	Sav-Inter OY Ltd., Nuolitie 20, Vantaa, Finland; *and* Manttaalitie 5, Vantaa, Finland; *and* Virkatie 1, Vantaa, Finland.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
* *	* *	* * *
HONG KONG	Advent International Limited, Room 1303 Goldfield Tower, 53–59 Wuhu Street, Kung Hom, Kowloon, Hong Kong; *and* Flat F, 13/F, Block 1, Hong Sing Garden, Tsueng Kwan O, New Territories, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].

Country	Listed person and address	**Federal Register** citation and date of publication
*	* * *	* * *
	Boqur International Ltd., Room 1203, 12/F, International Trade Centre, 11–19 Sha Tsui Road, Tsuen Wan, New Territories, Hong Kong; *and* Room 19C, Lockhart Centre, 301–307 Lockhart Road, Wan Chai, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
*	* * *	* * *
	Carry Goldstar Ltd., 15A, 15/F, Cheuk Nang Plaza, 250 Hennessy Road, Wan Chai, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER AND DATE OF PUBLICATION].
	Central Right Investments Ltd., Room 1019, 10/F, 1 Hung To Road, Kwun Tong, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
	CITI Hong Kong Ltd., Unit F, 7/F, Haribest Industry Building, 45–47 Au Pui Wan Street, Fo Tan, New Territories, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
	CST Source Industrial Co., Ltd., Rooms 5–15, 13/F, South Tower, World Finance Centre, Harbour City, 17 Canton Road, Tsim Sha Tsui, Kowloon, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
*	* * *	* * *
	Fuiyen Technology Ltd., 6/F, Block H, East Sun Industrial Centre, 16 Shing Yip Street, Kwun Tong, Kowloon, Hong Kong; *and* Room 1405, Lucky Centre, 165–171 Wan Chai Road, Wan Chai, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
	Fussion Electronics Co., Ltd., 11/F, International Trade Centre, 11–19 Sha Tsui Road, Tsuen Wan, New Territories, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
	Global Sourcing Electronics (HK) Ltd., Unit 4, 7/F, Bright Way Tower, No. 33 Mong Kok Road, Mong Kok, Kowloon, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
	Globe Communication (HK) Ltd., Flat 01A2, 10/F, Carnival Commercial Building, 18 Java Road, North Point, Hong Kong; *and* Flat C, 9/F, Winning House, 72–74 Wing Lok Street, Sheung Wan, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
*	* * *	* * *
	Haofeng Industrial Co., Ltd., Room 1101, 11/F, San Toi Building, 139 Connaught Road, Central, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
*	* * *	* * *
	Hong Kong Engy Technology Co., a.k.a. Hong Kong Energy Technology Co., a.k.a. SZ Engy Technology Co., a.k.a. SZ Energy Technology Co., Workshop 15, 2/F, Cardinal Industrial Building, 17 On Lok Mun Street, Fanling, New Territories, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
*	* * *	* * *
	Hong Kong U.Star Electronics Technology Co., Ltd., Room 28, 8/F, Shing Yip Industrial Building, 19–21 Shing Yip Street, Kwun Tong, Kowloon, Hong Kong; *and* Unit 5, 27/F, Richmong Commercial Building, 109 Argyle Street, Mong Kok, Kowloon, Hong Kong; *and* Room 704, 7/F, Bright Way Tower, 33 Mong Kok Road, Mong Kok, Kowloon, Hong Kong.	80 FR 4781, January 29, 2015; 81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
*	* * *	* * *
	Jin Yan Technology & Development Co., Ltd., Workshop 11, 8/F, Block A, Delya Industrial Centre, 7 Shek Pai Tau Road, Tuen Mun, New Territories, Hong Kong; *and* Room 1, Fook Cheung Building, 42 Ka Shin Street, Tai Kok Tsui, Kowloon, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
	KingV Ltd., a.k.a. Jinnway Data Ltd., Room 31, 9/F, Shing Yip Industrial Building, 19–21 Shing Yip Street, Kwun Tong, Kowloon, Hong Kong; *and* 11/F, Front Block, Hang Lok Building, 130 Wing Lok Street, Sheung Wan, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
*	* * *	* * *
	Master-Uni Industry Co., Ltd., Room 602, 6/F, 168 Queens Road, Central, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].

Country	Listed person and address	**Federal Register** citation and date of publication
*	* * *	* * *
	Newplus Equipment Ltd., 12/F, Chinachem Johnston Plaza, 178–186 Johnston Road, Wan Chai, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
*	* * *	* * *
	Phonai Electronics Ltd., 51F, Core Building 11, New Territories, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
*	* * *	* * *
	Runtop Circuits Technology Co., Room D9, 67/F, Block 2, Camel Paint Building, 62 Hoi Yuen Road, Kwun Tong, Hong Kong; *and* Flat 8–11, 16/F, New Trend Centre, 704 Prince Edward Road East, San Po Kong, Kowloon, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
	Scitech International Express Co. Limited, Workshop 11, 8/F, Block A, Delya Industrial Centre, 7 Shek Pai Tau Road, Tuen Mun, New Territories, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
	Selective Components Ltd., Room 8, 10/F, International Trade Centre, 11–19 Sha Tsui Road, Tsuen Wan, New Territories, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
*	* * *	* * *
	Sun Wing Ltd., Room 31, 9/F, Shing Yip Industrial Building, 19–21 Shing Yip Street, Kwun Tong, Kowloon, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
	Sur-Link Technology (HK) Ltd., a.k.a. Sur-Link International (HK) Ltd., a.k.a. Surlink Group, Flat 6, 20/F, Mega Trade Centre, 1–9 Mei Wan Street, Tsuen Wan, New Territories, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
*	* * *	* * *
	Toptech Electronics Ltd., 15/F, Hong Kong and Macau Building, 156–157 Connaught Road, Central, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
*	* * *	* * *
	Winthought Company Ltd., Unit E1, 3/F, Wing Tat Commercial Building, 121–125 Wing Lok Street, Sheung Wan, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
*	* * *	* * *
	Yield Best International, 6/F, Block H, East Sun Industrial Centre, 16 Shing Yip Street, Kwun Tong, Kowloon, Hong Kong; *and* Unit J, 9/F, King Win Factory Building, 65–67 King Yip Street, Kwun Tong, Hong Kong.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
*	* * *	* * *
INDIA	Conduit Technologies Pvt., Ltd., Office 201, 2/F, Lunkad Sky Station, Konark Naga, Mhada Colony, Viman Nagar, Pune, India; *and* Office UG21, East Court, Phoenix Market City, Viman Nagar, Pune, India.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
LATVIA	Alfa Photonics, 21 Krisjana Valdemara Iela, Riga, Latvia; *and* 151–11 Krisjana Valdemara Iela, Riga, Latvia; *and* 52–66 Darza Iela, Riga, Latvia; *and* Nordic Technology Park, 15/25 Jurkalnes Iela, Riga, Latvia.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
*	* * *	* * *
SINGAPORE	Dorado Network Pte., Ltd., 128 Joo Seng Road, DP Computers Building 04–04, Singapore; *and* 629 Aljunied Road, Cititech Industrial Building, Singapore; *and* 512 Woodlands Drive 14, Singapore.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
SWITZERLAND	Light Range AG, Stutzstrasse 13C, Schindellegi, Switzerland; *and* Lowenstrasse 20, Zurich, Switzerland; *and* Via Delle Scuole 34E, Figino, Switzerland.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
UNITED ARAB EMIRATES	Abu Trade LLC, Lot Number 155, Al Zaroni Yard, Al Wasl Road, Dubai, UAE.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
	Alsima Middle East General Trading, 802 Whiteswan Building, near Fairmont Hotel, Sheikh Zayed Road, Dubai, UAE.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].

Country	Listed person and address	**Federal Register** citation and date of publication
* * * * * * *		
	Establishment Standard Lab FZE, a.k.a. Standard Lab FZE, Ras Al Khaimah Free Trade Zone Business Park, Ras Al Khaimah, UAE; *and* P.O. Box 17049, Ras Al Khaimah, UAE.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
* * * * * * *		
	Marinatec, Office 2008, Grosvenor Commercial Tower, Sheikh Zayed Road, Dubai, UAE; *and* P.O. Box 42236, 17A Radisson Plaza, Deira, Dubai, UAE.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
	Middle East Oilfield Equipment, 723 Sama Tower, 6/F, near Fairmont Hotel, Sheikh Zayed Road, P.O. Box 4404, Dubai, UAE; *and* 217 Twin Towers, Baniyas Road, P.O. Box 4404, Deira, Dubai, UAE; *and* Flat 102, Mohammed Zainal Faraidooni Building, Salahuddin Road, Dubai, UAE.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
* * * * * * *		
	Tek Work General Trading, 1902 Metropolis Business Tower, P.O. Box 12865, Business Bay, Dubai, UAE.	81 FR [INSERT **Federal Register** PAGE NUMBER, 6/21/16].
* * * * * * *		

Dated: June 15, 2016.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2016–14514 Filed 6–20–16; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 160415341–6341–01]

RIN 0694–AG94

Addition of Certain Persons and Removal of Certain Persons From the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This final rule amends the Export Administration Regulations (EAR) by adding twenty-eight persons under thirty-one entries to the Entity List. The twenty-eight persons who are added to the Entity List have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States. These twenty-eight persons will be listed on the Entity List under the destinations of Afghanistan, Austria, China, Hong Kong, Iran, Israel, Panama, Taiwan, and the United Arab Emirates (U.A.E.).

This final rule also removes three entities from the Entity List under the destinations of Finland, Pakistan and Turkey as the result of requests for removal received by BIS pursuant to the section of the EAR used for requesting removal or modification of an Entity List entity and the End-User Review Committee's (ERC) review of the information provided in the removal requests.

DATES: This rule is effective June 21, 2016.

FOR FURTHER INFORMATION CONTACT: Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–5991, Fax: (202) 482–3911, Email: *ERC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Entity List (Supplement No. 4 to part 744) identifies entities and other persons reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States. The EAR imposes additional license requirements on, and limits the availability of most license exceptions for, exports, reexports, and transfers (in-country) to those listed. The "license review policy" for each listed entity or other person is identified in the License Review Policy column on the Entity List and the impact on the availability of license exceptions is described in the **Federal Register** notice adding entities or other persons to the Entity List. BIS places entities and other persons on the Entity List pursuant to sections of part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The ERC, composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote.

ERC Entity List Decisions

Additions to the Entity List

This rule implements the decision of the ERC to add twenty-eight persons under thirty-one entries to the Entity List. These twenty-eight persons are being added on the basis of § 744.11 (License requirements that apply to entities acting contrary to the national security or foreign policy interests of the United States) of the EAR. The thirty-one entries added to the entity list consist of one entry in Afghanistan, one entry in Austria, two entries in China, six entries in Hong Kong, four entries in Iran, eight entries in Israel, one entry in Panama, four entries in Taiwan, and four entries in the U.A.E. There are thirty-one entries for the twenty-eight persons because three persons are listed in multiple locations, resulting in three additional entries.

The ERC reviewed § 744.11(b) (Criteria for revising the Entity List) in making the determination to add these twenty-eight persons under thirty-one entries to the Entity List. Under that paragraph, persons and those acting on behalf of such persons may be added to the Entity List if there is reasonable cause to believe, based on specific and articulable facts, that they have been involved, are involved, or pose a significant risk of being or becoming involved in, activities that are contrary to the national security or foreign policy interests of the United States. Paragraphs (b)(1) through (5) of § 744.11 include an illustrative list of activities that could be contrary to the national security or foreign policy interests of the United States.

Pursuant to § 744.11(b)(2) of the EAR, the ERC determined that twenty persons, located in the destinations of Afghanistan, Austria, China, Hong Kong, Iran, Taiwan, and the U.A.E., be added to the Entity List for actions contrary to the national security or foreign policy interests of the United States. The ERC determined that there is reasonable cause to believe, based on specific and articulable facts, that Mehrdad Rueen Foomanie, Mehrdad Moeinansari and related parties including Enrich Ever Technologies Co., Ltd.; Foang Tech Inc.; Global Merchant General Trading L.L.C.; Gulf Gate Sea Cargo L.L.C.; Gulf Gate Sea Cargo LLC; Gulf Gate Shipping Co. L.L.C.; Gulf Gate Spedition GmbH; Hivocal Technology Company, Ltd.; Infinity Wise Technology Limited; Kuang-Su Corporation; Morvarid Shargh Co. Ltd.; Morvarid Sanat Co. LTD; Ninehead Bird Semiconductor; Panda Semiconductor; Pinky Trading Co., Ltd.; Sazgan Ertebat Co. Ltd.; Well Smart (HK) Technology; and Wise Smart (HK) Electronics Limited, have been involved in actions contrary to the national security or foreign policy interests of the United States. Specifically, Foomanie and Moeinansari conducted nearly 600 transactions with 63 different U.S. companies in which they obtained or attempted to obtain U.S.-origin parts and components without notifying the U.S. companies that the parts would be shipped to Iran and without getting the required U.S. Government license to ship the parts and components to Iran. Foomanie and Moeinansari, with the assistance of companies located in Iran, arranged to have the items unlawfully shipped to Iran through companies located in Taiwan, Hong Kong and China. Additionally, Moeinansari attempted to transship and transshipped cargo originating in the United States using his company, Gulf Gate Sea Cargo LLC, located in Dubai, U.A.E.

In addition, pursuant to § 744.11(b) of the EAR, the ERC determined that eight persons, located in the destinations of Israel and Panama, be added to the Entity List for actions contrary to the national security or foreign policy interests of the United States. The ERC determined there is reasonable cause to believe, based on specific and articulable facts, that Eliyahu Cohen and the following related persons: A. Leib Ltd.; AVS (Armored Vehicle Spares); M&P Trading Inc.; P.AD Ltd.; QPS Ltd.; RSP Ltd.; and Wheels Incorporated have been involved in activities that are contrary to the national security and foreign policy interests of the United States. Specifically, these persons procured and/or retransferred U.S.-origin items to Israel and Iran without having first obtained the required authorization or license from the U.S. Government.

Pursuant to § 744.11(b) of the EAR, the ERC determined that the conduct of these twenty-eight persons raises sufficient concern that prior review of exports, reexports or transfers (in-country) of items subject to the EAR involving these persons, and the possible imposition of license conditions or license denials on shipments to the persons, will enhance BIS's ability to prevent violations of the EAR. Therefore, these twenty-eight persons are being added to the Entity List under thirty-one entries.

For the twenty-eight persons under thirty-one entries added to the Entity List, BIS imposes a license requirement for all items subject to the EAR and a license review policy of presumption of denial. The license requirements apply to any transaction in which items are to be exported, reexported, or transferred (in-country) to any of the persons or in which such persons act as purchaser, intermediate consignee, ultimate consignee, or end-user. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to the persons being added to the Entity List in this rule. The acronym "a.k.a." (also known as) is used in entries on the Entity List to help exporters, reexporters and transferors better identify listed persons on the Entity List.

This final rule adds the following twenty-eight persons under thirty-one entries to the Entity List:

Afghanistan

(1) *Gulf Gate Sea Cargo LLC,*
Gulzaad Market Building, 4th Floor, Room 2, Kabul, Afghanistan.

Austria

(1) *Gulf Gate Spedition GmbH,*
A–1040 Argentinierstrasse 35/6, Vienna, Austria.

China

(1) *Foang Tech Inc.,* a.k.a., the following one alias:
—Ofogh Electronics Co.
52F, Shun Hing Square, Unit 1–8 Di Wang Commercial Center, Shenzhen, China (See alternate address under Hong Kong); *and*

(2) *Ninehead Bird Semiconductor,*
RM 15, Jufu Ge, Caifu Bld, Caitian Road, Futian Qu, Shenzhen, Guangdong, 518033, China.

Hong Kong

(1) *Foang Tech Inc.,* a.k.a., the following one alias:
—Ofogh Electronics Co.
Flat/RM 1701-Ricky CTR, 36 Chowg Yip Street, Kwun Tong, Hong Kong (See alternate address under China);

(2) *Infinity Wise Technology Limited,*
7/F One Kowloon, 1 Wang Yuen Street, Kowloon Bay, Kowloon, Hong Kong; *and* Room 1213 Chui King House, Choi Hung Estate, Kowloon, Hong Kong (See alternate addresses under Taiwan);

(3) *Panda Semiconductor,*
Room 2, Unit A 14/F Shun on Commercial building, 112–114 Des Voeux Road, Central, Hong Kong;

(4) *Pinky Trading Co., Ltd.,*
338 Queen's Road, Central, Hong Kong;

(5) *Well Smart (HK) Technology,*
Room 604, Kalok Building, 720 Nathan Road, Kowloon, Hong Kong; *and*

(6) *Wise Smart (HK) Electronics Limited,*
Room 1213, Chui King House, Choi Hung Estate, Kowloon, Hong Kong.

Iran

(1) *Mehrdad Rueen Foomanie,* a.k.a., the following four aliases:
—Frank Foomanie;
—Mark Foomanie;
—Mark Averin; *and*
—Max Xian.
No. 35 Abaas Abaad Street, Daryosh Street Andesheh 2 Street (Hamid Qods), Iran—Tehran; *and* Sohrivardi Shomali Street, Andesheh 2 Street, after Daryoush Crossroad, No. 35, Floor 5, No. 8, Tehran, Iran;

(2) *Morvarid Sanat Co., Ltd.,*
Sohrivardi Shomah Street, Andesheh 2 Street, after Daryosh Crossroad, No. 35, Floor 5, No. 8, Tehran, Iran;

(3) *Morvarid Shargh Co., Ltd.,*
Sohrivardi Street No. 35, Tehran, Iran; *and*

(4) *Sazgan Ertebat Co., Ltd.,* a.k.a., the following one alias:
—Sazgan Ertebat Poya Co. Ltd.
No. 40-Hoveizeh St. Sohrevardi St., Tehran, Iran; *and* P.O. Box 16315–194 Zip: 1559934314.

Israel

(1) *A. Leib Ltd.,*
HA'Assif 19, Binyamina, Israel;

(2) *AVS (Armored Vehicle Spares),*
a.k.a., the following one alias:

—Armored Vehicle Service.
42 Hamesilla Street, Binyamina, Israel;

(3) *Eliyahu Cohen,* a.k.a., the following six aliases:
—Arie Cohen;
—Eli Cohen;
—Eliyahu Ari Cohen;
—Eliyahu Arie Cohen;
—Eric Cohen; *and*
—Ari Kohan.
Binyamina, Israel.

(4) *M&P Trading Inc.,*
P.O. Box 161, Caesarea, Israel 3088903;

(5) *P.AD Ltd.,*
42 Hamesilla Street, Binyamina, Israel;

(6) *QPS Ltd.,* a.k.a., the following two aliases:
—Quality Parts and Spares; *and*
—Quality Parts and Services.
5 Ner Halayla Street, Caesarea, Israel; *and* 42 Hamesilla Street, Railway Industrial Area, Binyamina, Israel;

(7) *RSP Ltd.,* a.k.a., the following one alias:
—Rebuilt Spare Parts.
HA'Assif 19, Binyamina, Israel 30550; *and*

(8) *Wheels Incorporated,*
HA'Assif 43, Binyamina, Israel 30551 (See alternate address under Panama).

Panama

(1) *Wheels Incorporated,*
P.O. Box 6—2875, El Dorado, Panama (See alternate address under Israel).

Taiwan

(1) *Enrich Ever Technologies Co., Ltd.,* a.k.a., the following one alias:
—Enrich Ever Technologies Co.
9F No. 38 Ming-Fu 13th Street, Taoyuan, Taiwan; *and*
8F, No. 431, Da-You Road, Taoyuan, Taiwan;

(2) *Hivocal Technology Company, Ltd.;*
10F, No. 736, Jhongjheng Road, Jhonghe City, Taipei County 235, Taiwan;

(3) *Infinity Wise Technology Limited,*
Flat/RMA 6/F, Man Wing Building 503–507 Nathan Road Yaumate 1, Taiwan; *and* 8F, No. 431, Da-You Road Taoyuan, Taiwan (See alternate addresses under Hong Kong); *and*

(4) *Kuang-Su Corporation,*
8F, No. 431, Da-You Road, Taoyuan, Taiwan.

United Arab Emirates

(1) *Global Merchant General Trading LLC,*
P.O. Box 39960, Dubai, U.A.E.;

(2) *Gulf Gate Sea Cargo LLC,*
No. 508, Bldg P–114, Almaktoum Road, Deirah, Dubai, United Arab Emirates; *and* P.O. Box 39948, Dubai, U.A.E.;

(3) *Gulf Gate Shipping Co. LLC,*
No. 508, Bldg P–114, Almaktoum Road, Deirah, Dubai, United Arab Emirates; *and* P.O. Box 39948, Dubai, U.A.E.; *and*

(4) *Mehrdad Moeinansari,* a.k.a., the following one alias:
—Mehrdad Ansari.
No 7101, Index Tower DIFC, Dubai, U.A.E.; *and* No 508, Sheikha Maryam Bldg., Deirah, Dubai, U.A.E. 39948.

Removals From the Entity List

This rule implements the decisions of the ERC to remove the following three entries from the Entity List based on removal requests received by the BIS: Nurminen Oy, located in Finland; Rayyan Air Pvt Ltd., located in Pakistan; and AAG Makina, located in Turkey.

The ERC's decisions to remove Nurminen Oy, Rayyan Air Pvt Ltd and AAG Makina from the Entity List were based on information received by the BIS pursuant to § 744.16 of the Export Administration Regulation and further review conducted by the ERC.

In accordance with § 744.16(c), the Deputy Assistant Secretary for Export Administration has sent written notification informing these three persons of the ERC's decisions to remove them from the Entity List.

This final rule implements the decisions to remove the following three entities located in Finland, Pakistan and Turkey from the Entity List:

Finland

(1) *Nurminen Oy,*
231B Vanha Porvoontie, Vantaa, Finland 01380.

Note that while Nurminen Oy is being removed, Olkebor Oy is being retained on the Entity List in this final rule.

Pakistan

(1) *Rayyan Air Pvt Ltd.,*
House No 614 Street No 58 I–8/2 Islamabad, Pakistan; *and* Office No 456, K Street No 57 I–8/3 Islamabad, Pakistan.

Turkey

(1) *AAG Makina,*
Mah. Idris Kosku Caddesi Kutu, Sokak No:1 Pierreloti/Eyup, Istanbul, Turkey.

The removal of the three persons referenced above, which was approved by the ERC, eliminates the existing license requirements in Supplement No. 4 to part 744 for exports, reexports and transfers (in-country) to these entities. However, the removal of these three persons from the Entity List does not relieve persons of other obligations under part 744 of the EAR or under other parts of the EAR. Neither the removal of an entity from the Entity List nor the removal of Entity List-based license requirements relieves persons of their obligations under General Prohibition 5 in § 736.2(b)(5) of the EAR which provides that, "you may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user or end-use that is prohibited by part 744 of the EAR." Additionally, these removals do not relieve persons of their obligation to apply for export, reexport or in-country transfer licenses required by other provisions of the EAR. BIS strongly urges the use of Supplement No. 3 to part 732 of the EAR, "BIS's 'Know Your Customer' Guidance and Red Flags," when persons are involved in transactions that are subject to the EAR.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export or reexport, on June 21, 2016, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR).

Export Administration Act

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 7, 2015, 80 FR 48233 (August 11, 2015), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222, as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic,

environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 43.8 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by email to *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. For the twenty-eight persons under thirty-one entries added to the Entity List in this final rule, the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (See 5 U.S.C. 553(a)(1).) BIS implements this rule to protect U.S. national security or foreign policy interests by preventing items from being exported, reexported, or transferred (in country) to the persons being added to the Entity List. If this rule were delayed to allow for notice and comment and a delay in effective date, the entities being added to the Entity List by this action would continue to be able to receive items without a license and to conduct activities contrary to the national security or foreign policy interests of the United States. In addition, publishing a proposed rule would give these parties notice of the U.S. Government's intention to place them on the Entity List and would create an incentive for these persons to either accelerate receiving items subject to the EAR to conduct activities that are contrary to the national security or foreign policy interests of the United States, and/or to take steps to set up additional aliases, change addresses, and other measures to try to limit the impact of the listing on the Entity List once a final rule was published. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

5. For the three entries removed from the Entity List in this final rule, pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), BIS finds good cause to waive requirements that this rule be subject to notice and the opportunity for public comment because it would be contrary to the public interest.

In determining whether to grant removal requests from the Entity List, a committee of U.S. Government agencies (the End-User Review Committee (ERC)) evaluates information about and commitments made by listed persons requesting removal from the Entity List, the nature and terms of which are set forth in 15 CFR part 744, Supplement No. 5, as noted in 15 CFR 744.16(b). The information, commitments, and criteria for this extensive review were all established through the notice of proposed rulemaking and public comment process (72 FR 31005 (June 5, 2007) (proposed rule), and 73 FR 49311 (August 21, 2008) (final rule)). These three removals have been made within the established regulatory framework of the Entity List. If the rule were to be delayed to allow for public comment, U.S. exporters may face unnecessary economic losses as they turn away potential sales to the other entities removed by this rule because the customer remained listed persons on the Entity List even after the ERC approved the removals pursuant to the rule published at 73 FR 49311 on August 21, 2008. By publishing without prior notice and comment, BIS allows the applicants to receive U.S. exports immediately since the applicants already have received approval by the ERC pursuant to 15 CFR part 744, Supplement No. 5, as noted in 15 CFR 744.16(b).

The removals from the Entity List granted by the ERC involve interagency deliberation and result from review of public and non-public sources, including sensitive law enforcement information and classified information, and the measurement of such information against the Entity List removal criteria. This information is extensively reviewed according to the criteria for evaluating removal requests from the Entity List, as set out in 15 CFR part 744, Supplement No. 5 and 15 CFR 744.16(b). For reasons of national security, BIS is not at liberty to provide to the public detailed information on which the ERC relied to make the decisions to remove these three entities. In addition, the information included in the removal request is information exchanged between the applicant and the ERC, which by law (section 12(c) of the Export Administration Act), BIS is restricted from sharing with the public. Moreover, removal requests from the Entity List contain confidential business information, which is necessary for the extensive review conducted by the U.S. Government in assessing such removal requests.

Section 553(d) of the APA generally provides that rules may not take effect earlier than thirty (30) days after they are published in the **Federal Register**. BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(1) because this rule is a substantive rule which relieves a restriction. This rule's removal of three persons under three entries from the Entity List removes a requirement (the Entity-List-based license requirement and limitation on use of license exceptions) on these three persons being removed from the Entity List. The rule does not impose a requirement on any other person for these three removals from the Entity List.

No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required under the APA or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. As a result, no final regulatory flexibility analysis is required and none has been prepared.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730 through 774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 7, 2015, 80 FR 48233 (August 11, 2015); Notice of September 18, 2015, 80 FR 57281 (September 22, 2015); Notice of November 12, 2015, 80 FR 70667 (November 13, 2015); Notice of January 20, 2016, 81 FR 3937 (January 22, 2016).

■ 2. Supplement No. 4 to part 744 is amended:

■ a. By adding under Afghanistan, in alphabetical order, one Afghani entity;

■ b. By adding in alphabetical order, an entry for Austria and one Austrian entity;

■ c. By adding under China, People's Republic of, in alphabetical order, two Chinese entities;

■ d. By removing under Finland, the Finnish entity, "Olkebor Oy/Nurminen Oy" and adding in its place the Finnish entity, "Olkebor Oy";

■ e. By adding under Hong Kong, in alphabetical order, six Hong Kong entities;

■ f. By adding under Iran, in alphabetical order, four Iranian entities;

■ g. By adding under Israel, in alphabetical order, eight Israeli entities;

■ h. By removing under Pakistan, one Pakistani entity, "Rayyan Air Pvt Ltd.";

■ i. By adding under Panama, in alphabetical order, one Panamanian entity;

■ j. By adding under Taiwan, in alphabetical order, four Taiwanese entities;

■ k. By removing under Turkey, one Turkish entity, "AAG Makina"; and

■ l. By adding under United Arab Emirates, in alphabetical order, four Emirati entities.

The additions and revisions read as follows:

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST

Country	Entity	License requirement	License review policy	**Federal Register** citation
AFGHANISTAN	* *	*	* *	*
	Gulf Gate Sea Cargo LLC, Gulzaad Market Building, 4th Floor, Room 2, Kabul, Afghanistan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
*	* *	*	* *	*
AUSTRIA	Gulf Gate Spedition GmbH, A–1040 Argentinierstrasse 35/6, Vienna, Austria.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
*	* *	*	* *	*
CHINA, PEOPLE'S REPUBLIC OF	* *	*	* *	*
	Foang Tech Inc., a.k.a., the following one alias: —Ofogh Electronics Co. 52F, Shun Hing Square, Unit 1–8 Di Wang Commercial Center, Shenzhen, China (See alternate address under Hong Kong).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	* *	*	* *	*
	Ninehead Bird Semiconductor, RM 15, Jufu Ge, Caifu Bld, Caitian Road, Futian Qu, Shenzhen, Guangdong, 518033, China.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
*	* *	*	* *	*
FINLAND	* *	*	* *	*
	Olkebor Oy, 231B Vanha Porvoontie, Vantaa, Finland 01380.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	77 FR 61256, 10/9/12. 78 FR 3319, 1/16/13. 81 FR [INSERT FR PAGE NUMBER] 6/21/16.
*	* *	*	* *	*
HONG KONG	* *	*	* *	*
	Foang Tech Inc., a.k.a., the following one alias: —Ofogh Electronics Co. Flat/RM 1701–Ricky CTR, 36 Chowg Yip Street, Kwun Tong, Hong Kong (See alternate address under China).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	* *	*	* *	*

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Infinity Wise Technology Limited, 7/F One Kowloon, 1 Wang Yuen Street, Kowloon Bay, Kowloon, Hong Kong; *and* Room 1213 Chui King House, Choi Hung Estate, Kowloon, Hong Kong (See alternate addresses under Taiwan).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	* *	*	* *	*
	Panda Semiconductor, Room 2, Unit A 14/F Shun on Commercial building, 112–114 Des Voeux Road, Central, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	Pinky Trading Co., Ltd., 338 Queen's Road, Central, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	* *	*	* *	*
	Well Smart (HK) Technology, Room 604, Kalok Building, 720 Nathan Road, Kowloon, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	Wise Smart (HK) Electronics Limited, Room 1213, Chui King House, Choi Hung Estate, Kowloon, Hong Kong.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
*	* *	*	* *	*
IRAN	* *	*	* *	*
	Mehrdad Rueen Foomanie, a.k.a., the following four aliases: —Frank Foomanie; —Mark Foomanie; —Mark Averin; *and* —Max Xian. No. 35 Abaas Abaad Street, Daryosh Street Andesheh 2 Street (Hamid Qods), Iran—Tehran; *and* Sohrivardi Shomali Street, Andesheh 2 Street, after Daryoush Crossroad, No. 35, Floor 5, No. 8, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	*	*	* *	*
	Morvarid Sanat Co. Ltd., Sohrivardi Shomah Street, Andesheh 2 Street, after Daryosh Crossroad, No. 35 Floor 5, No. 8, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	Morvarid Shargh Co. Ltd., Sohrivardi Street No. 35, Tehran, Iran.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	* *	*	* *	*
	Sazgan Ertebat Co. Ltd., a.k.a., the following one alias: —Sazgan Ertebat Poya Co. Ltd. No. 40-Hoveizeh St. Sohrevardi St., Tehran, Iran; *and* P.O. Box 16315–194 Zip: 1559934314.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
*	* *	*	* *	*
ISRAEL	A. Leib Ltd.; HA'Assif 19, Binyamina, Israel.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	AVS (Armored Vehicle Spares), a.k.a., the following one alias: —Armored Vehicle Service. 42 Hamesilla Street, Binyamina, Israel.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	* *	*	* *	*

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Eliyahu Cohen, a.k.a., the following six aliases: —Arie Cohen; —Eli Cohen; —Eliyahu Ari Cohen; —Eliyahu Arie Cohen; —Eric Cohen; *and* —Ari Kohan. Binyamina, Israel.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	M&P Trading Inc., P.O. Box 161, Caesarea, Israel 3088903.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	* *	*	* *	*
	P.AD Ltd., 42 Hamesilla Street, Binyamina, Israel.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	QPS Ltd., a.k.a., the following two aliases: —Quality Parts and Spares; *and* —Quality Parts and Services. 5 Ner Halayla Street, Caesarea, Israel; *and* 42 Hamesilla Street, Railway Industrial Area, Binyamina, Israel.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	RSP Ltd., a.k.a., the following one alias: —Rebuilt Spare Parts. HA'Assif 19, Binyamina, Israel 30550.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	Wheels Incorporated, HA'Assif 43, Binyamina, Israel 30551 (See alternate address under Panama).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
*	* *	*	* *	*
PANAMA	* *	*	* *	*
	Wheels Incorporated, P.O. Box 6—2875, El Dorado, Panama (See alternate address under Israel).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
*	* *	*	* *	*
TAIWAN	* *	*	* *	*
	Enrich Ever Technologies Co., Ltd., a.k.a., the following one alias: —Enrich Ever Technologies Co., 9F No. 38 Ming-Fu 13th Street, Taoyuan, Taiwan; *and* 8F, No. 431, Da-You Road, Taoyuan, Taiwan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	Hivocal Technology Company, Ltd., 10F, No. 736, Jhongjheng Road, Jhonghe City, Taipei County 235, Taiwan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	* *	*	* *	*
	Infinity Wise Technology Limited, Flat/RMA 6/F, Man Wing Building 503–507 Nathan Road Yaumate 1, Taiwan; *and* 8F, No. 431, Da-You Road Taoyuan, Taiwan (See alternate addresses under Hong Kong).	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	* *	*	* *	*
	Kuang-Su Corporation, 8F, No. 431, Da-You Road, Taoyuan, Taiwan.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
*	* *	*	* *	*
UNITED ARAB EMIRATES	* *	*	* *	*
	Global Merchant General Trading LLC, P.O. Box 39960, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	* *	*	* *	*

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST—Continued

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Gulf Gate Sea Cargo LLC, No. 508, Bldg P–114, Almaktoum Road, Deirah, Dubai, United Arab Emirates; *and* P.O. Box 39948, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	Gulf Gate Shipping Co. LLC, No. 508, Bldg P–114, Almaktoum Road, Deirah, Dubai, United Arab Emirates; *and* P.O. Box 39948, Dubai, U.A.E.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
	* *	*	* *	*
	Mehrdad Moeinansari, a.k.a., the following one alias: —Mehrdad Ansari. No 7101, Index Tower DIFC, Dubai, U.A.E.; *and* No 508, Sheikha Maryam Bldg., Deirah, Dubai, U.A.E. 39948.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	81 FR [INSERT FR PAGE NUMBER] 6/21/16.
*	*	* *	* *	*

Dated: June 9, 2016.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2016–14515 Filed 6–20–16; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 884

[Docket No. FDA–2016–N–1318]

Medical Devices; Obstetrical and Gynecological Devices; Classification of the Gynecologic Laparoscopic Power Morcellation Containment System

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying the gynecologic laparoscopic power morcellation containment system into class II (special controls). The special controls that will apply to the device are identified in this order and will be part of the codified language for the gynecologic laparoscopic power morcellation containment system's classification. The Agency is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device.

DATES: This order is effective June 21, 2016. The classification was applicable on April 7, 2016.

FOR FURTHER INFORMATION CONTACT: Veronica Price, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G116, Silver Spring, MD 20993–0002, 301–796–6538, *veronica.price@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976 (the date of enactment of the Medical Device Amendments of 1976), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of the regulations.

Section 513(f)(2) of the FD&C Act, as amended by section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), provides two procedures by which a person may request FDA to classify a device under the criteria set forth in section 513(a)(1). Under the first procedure, the person submits a premarket notification under section 510(k) of the FD&C Act for a device that has not previously been classified and, within 30 days of receiving an order classifying the device into class III under section 513(f)(1) of the FD&C Act, the person requests a classification under section 513(f)(2). Under the second procedure, rather than first submitting a premarket notification under section 510(k) of the FD&C Act and then a request for classification under the first procedure, the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence and requests a classification under section 513(f)(2) of the FD&C Act. If the person submits a request to classify the device under this second procedure, FDA may decline to undertake the classification request if FDA identifies a legally marketed device that could provide a reasonable basis for review of substantial equivalence with the device or if FDA determines that the device submitted is not of "low-moderate risk" or that general controls would be inadequate to control the risks and special controls to mitigate the risks cannot be developed.

In response to a request to classify a device under either procedure provided by section 513(f)(2) of the FD&C Act, FDA will classify the device by written order within 120 days. This classification will be the initial classification of the device.

On June 19, 2015, Advanced Surgical Concepts submitted a request for classification of the PneumoLiner device under section 513(f)(2) of the FD&C Act. The manufacturer recommended that the device be classified into class II (Ref. 1).

In accordance with section 513(f)(2) of the FD&C Act, FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1). FDA classifies devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the request, FDA determined that the device can be classified into class II with the establishment of special controls. FDA believes these special controls, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on April 7, 2016, FDA issued an order to the requestor classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 884.4050.

Following the effective date of this final classification order, any firm submitting a premarket notification (510(k)) for a gynecologic laparoscopic power morcellation containment system will need to comply with the special controls named in this final order.

The device is assigned the generic name gynecologic laparoscopic power morcellation containment system and is identified as a prescription device consisting of an instrument port and tissue containment method that creates a working space allowing for direct visualization during a power morcellation procedure following a laparoscopic procedure for the excision of benign gynecologic tissue that is not suspected to contain malignancy.

FDA has identified the following risks to health associated with this type of device and the measures required to mitigate these risks, in Table 1.

TABLE 1—GYNECOLOGIC LAPAROSCOPIC POWER MORCELLATION CONTAINMENT SYSTEM RISKS AND MITIGATION MEASURES

Identified risk	Mitigation measure
Adverse tissue reaction	Biocompatibility.
Infection	Sterilization validation, shelf life validation, and labeling.
Intraperitoneal tissue dissemination (benign or malignant): • Material permeability; • Improper function of containment device; • Inadequate material strength; • Physical trauma to liner caused by contact with morcellator or grasper/tenaculum; • Damage to liner (intentional or accidental) from instrument inserted through secondary port; • Tearing during removal with loss of contents into abdominal cavity; and • Use error.	Non-clinical performance testing (bench and animal), shelf life validation, labeling, and training.
Traumatic injury to non-target tissue/organ: • Active end of morcellator or grasper/tenaculum breaches liner; • Loss of insufflation; • Inadequate space to perform morcellation; • Inadequate visualization of the laparoscopic instruments and tissue specimen relative to the external viscera; and • Use error.	Non-clinical performance testing (bench and animal), labeling, and training.
Hernia through abdominal wall incision	Labeling and training.
Prolongation of procedure and exposure to anesthesia	Labeling and training.

FDA believes that the special controls, in addition to the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness.

A gynecologic laparoscopic power morcellation containment system is not safe for use except under the supervision of a practitioner licensed by law to direct the use of the device. As such, the device is a prescription device and must satisfy prescription labeling requirements (see 21 CFR 801.109, *Prescription devices*).

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For this type of device, FDA has determined that premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of the device. Therefore, this device type is not exempt from premarket notification requirements. Persons who intend to market this type of device must submit to FDA a premarket notification, prior to marketing the device, which contains information about the gynecologic laparoscopic power morcellation containment system they intend to market.

II. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120, and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

IV. Reference

The following reference is on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; it is also available electronically at *http://www.regulations.gov.*

1. DEN150028: De novo request from Advanced Surgical Concepts, dated June 19, 2015.

List of Subjects in 21 CFR Part 884

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 884 is amended as follows:

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

■ 1. The authority citation for part 884 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

■ 2. Add § 884.4050 to subpart E to read as follows:

§ 884.4050 Gynecologic laparoscopic power morcellation containment system.

(a) *Identification.* A gynecologic laparoscopic power morcellation containment system is a prescription device consisting of an instrument port and tissue containment method that creates a working space allowing for direct visualization during a power morcellation procedure following a laparoscopic procedure for the excision of benign gynecologic tissue that is not suspected to contain malignancy.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The patient-contacting components of the device must be demonstrated to be biocompatible;

(2) Device components that are labeled sterile must be validated to a sterility assurance level of 10^{-6};

(3) Performance data must support shelf life by demonstrating continued sterility of the device or the sterile components, package integrity, and device functionality over the intended shelf life;

(4) Non-clinical performance data must demonstrate that the device meets all design specifications and performance requirements. The following performance characteristics must be tested:

(i) Demonstration of the device impermeability to tissue, cells, and fluids;

(ii) Demonstration that the device allows for the insertion and withdrawal of laparoscopic instruments while maintaining pneumoperitoneum;

(iii) Demonstration that the containment system provides adequate space to perform morcellation and adequate visualization of the laparoscopic instruments and tissue specimen relative to the external viscera;

(iv) Demonstration that intended laparoscopic instruments and morcellators do not compromise the integrity of the containment system; and

(v) Demonstration that intended users can adequately deploy the device, morcellate a specimen without compromising the integrity of the device, and remove the device without spillage of contents;

(5) Training must be developed and validated to ensure users can follow the instructions for use; and

(6) Labeling must include the following:

(i) A contraindication for use in gynecologic surgery in which the tissue to be morcellated is known or suspected to contain malignancy;

(ii) Unless clinical performance data demonstrates that it can be removed or modified, a contraindication for removal of uterine tissue containing suspected fibroids in patients who are: Peri- or postmenopausal, or candidates for en bloc tissue removal, for example, through the vagina or via a mini-laparotomy incision;

(iii) The following boxed warning: "Warning: Information regarding the potential risks of a procedure with this device should be shared with patients. Uterine tissue may contain unsuspected cancer. The use of laparoscopic power morcellators during fibroid surgery may spread cancer. The use of this containment system has not been clinically demonstrated to reduce this risk."

(iv) A statement limiting use of device to physicians who have completed the training program; and

(v) An expiration date or shelf life.

Dated: June 15, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–14627 Filed 6–20–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 40, 41, and 44

[Docket No. TTB–2013–0006; T.D. TTB–137; Re: T.D. TTB–115; Notice No. 137; T.D. ATF–421; T.D. ATF–422; ATF Notice Nos. 887 and 888]

RIN 1513–AB37

Importer Permit Requirements for Tobacco Products and Processed Tobacco, and Other Requirements for Tobacco Products, Processed Tobacco and Cigarette Papers and Tubes

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau is adopting as a final rule, without change, a temporary rule concerning permit and other requirements related to importers and manufacturers of tobacco products and processed tobacco published in the **Federal Register** on June 27, 2013. The regulatory amendments adopted in this final rule include an extension in the duration of new permits for importers of tobacco products and processed tobacco from three years to five years, a technical correction amending the definition of "Manufacturer of tobacco products" to reflect a statutory change, and a technical correction related to references to the sale price of large cigars. This final rule also permanently incorporates and reissues other TTB regulations pertaining to importer permit requirements for tobacco products as well as minimum manufacturing and marking requirements for tobacco products and cigarette papers and tubes that also were incorporated in the June 27, 2013, temporary rule.

DATES: Effective July 21, 2016, the temporary regulations published in the **Federal Register** as T.D. TTB–115 at 78 FR 38555 on June 27, 2013, are adopted as final, and those temporary regulations will no longer have a sunset date of August 26, 2016.

FOR FURTHER INFORMATION CONTACT: Jessie Longbrake, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, Box 12, Washington, DC 20005; telephone 202–453–2265; email *TobaccoRegs@ttb.gov.*

SUPPLEMENTARY INFORMATION:

Background

TTB Authority

Chapter 52 of the Internal Revenue Code of 1986 (IRC) contains excise tax and related provisions pertaining to tobacco products and cigarette papers and tubes. Section 5701 of the IRC (26 U.S.C. 5701) imposes various rates of tax on such products manufactured in, or imported into, the United States. Section 5704 of the IRC (26 U.S.C. 5704) provides for certain exemptions from those taxes. Sections 5712 and 5713 of the IRC (26 U.S.C. 5712 and 5713) provide that manufacturers and importers of tobacco products or processed tobacco and export warehouse proprietors must apply for and possess a permit in order to engage in such businesses. Section 5712 also allows for the promulgation of regulations prescribing minimum manufacturing and activity requirements for such permittees, and section 5713 also sets forth standards regarding the suspension and revocation of permits. Section 5754 of the IRC (26 U.S.C. 5754) sets forth restrictions on the importation of previously exported tobacco products. Section 5761 of the IRC (26 U.S.C. 5761) sets forth civil penalties for, among other things, selling, relanding, or receiving any tobacco products or cigarette papers or tubes that were labeled or shipped for exportation.

The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these statutory provisions pursuant to section 1111(d) of the Homeland Security Act of 2003, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01 (dated December 10, 2013, superseding Treasury Order 120–01 (Revised), "Alcohol and Tobacco Tax and Trade Bureau," dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these laws.

Regulations implementing the Chapter 52 provisions are contained in chapter I of title 27 of the Code of Federal Regulations (27 CFR). Those regulations include: Part 40 (Manufacture of tobacco products, cigarette papers and tubes, and processed tobacco); part 41 (Importation of tobacco products, cigarette papers and tubes, and processed tobacco); and part 44 (Exportation of tobacco products and cigarette papers and tubes, without payment of tax, or with drawback of tax).

Publication of Temporary Regulations and Notice of Proposed Rulemaking

On June 27, 2013, TTB published in the **Federal Register** at 78 FR 38555, T.D. TTB–115 amending the regulations in 27 CFR parts 40, 41, and 44. The temporary rule was effective on August 26, 2013, and would have expired on August 26, 2016, if not finalized prior to that date. In the same issue of the **Federal Register**, TTB also requested public comments on the temporary rule via a notice of proposed rulemaking, Notice No. 137 (78 FR 38646). TTB received one comment in response to Notice No. 137 by the close of the comment period on August 26, 2013. That comment is discussed in more detail below.

Notice No. 137 and the Comment Received

TTB received one comment in response to Notice No. 137, submitted by a Washington, DC law firm on behalf of an individual who imports cigars.

The comment regards the amendment in the temporary rule, in which TTB inserted the words "United States" before the word "manufacturer" in 27 CFR 41.39, Determination of Sale Price of Large Cigars. Under 26 U.S.C. 5701(a)(2), the Federal excise tax on large cigars manufactured in or imported into the United States is a percentage of the "price for which sold" but not more than a maximum. Currently, the tax is 52.75 percent of the price for which sold but not more than 40.26 cents per cigar. The commenter objects to the "price for which sold" being the price for which the cigars are sold by the importer, and concludes by requesting that TTB not insert "United States" before the word "manufacturer" in § 41.39, Determination of Sale Price of Large Cigars, and, instead, adopt a regulation to authorize importers of large cigars to base their Federal excise tax calculations on the foreign manufacturer's sales price.

TTB Response

In the temporary rule, T.D. TTB–115, TTB did not propose to change its interpretation regarding the Federal excise tax determination of large cigars. Rather, the addition of "United States" before the word "manufacturer" in § 41.39 is a technical correction intended to bring § 41.39 more clearly into conformity with other regulatory provisions in parts 40 and 41 which already reflect the interpretation by TTB and TTB's predecessor agency, the Bureau of Alcohol, Tobacco and Firearms (ATF), of the text of section 5701(a)(2), that is, that the Federal excise tax for large cigars is based on the sale price at which the cigars are sold by the importer or the United States manufacturer. This interpretation dates to the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508, 104 Stat. 1388), which changed the basis of taxation on large cigars, from the "wholesale price" (generally, the manufacturer's or importer's suggested delivered price at which the cigars are sold to retailers) to the "price for which sold."

In T.D. ATF–307 (December 21, 1990; 55 FR 52742), ATF amended its regulations to reflect the new text of section 5701(a)(2). On March 19, 1991, ATF issued Industry Circular 91–3, which provided guidance concerning the implementation of the tax on large cigars and included specific guidance regarding the tax on imported large cigars. The Industry Circular explains how an importer determines the tax on large cigars when the release from customs custody (the taxable event) occurs before the sale of the cigars. In T.D. TTB–78 (June 22, 2009; 74 FR 29401), TTB clarified the definition of "sale price" in § 41.11 by adding the words "United States" before "manufacturer." (That temporary rule was finalized by T.D. TTB–104 (June 21, 2012, 77 FR 37287).) However, when this change was made, TTB inadvertently failed to make a corresponding change to the operative regulation in § 41.39. Therefore in T.D. TTB–115, TTB made the necessary technical change by adding "United States" before the word "manufacturer" in § 41.39.

As stated above, the temporary rule did not introduce a substantive change to the TTB regulations regarding the application of the sale price but, rather, made a technical correction to bring § 41.39 more clearly into conformity with other TTB regulatory provisions and with the position stated in Industry Circular 91–3. Thus, the request of the commenter is beyond the scope of the rulemaking.

Adoption of Final Rule

TTB adopts as a final rule, without change, the temporary regulatory amendments contained in T.D. TTB–115, effective 30 days from the publication of this document. As a result, TTB is permanently amending its regulations in 27 CFR parts 40, 41, and 44 pertaining to permits for importers of tobacco products and processed tobacco by extending the duration of new permits from three years to five years. In addition, TTB is permanently amending the definition of "Manufacturer of tobacco products" to reflect a recent statutory change, and is amending a reference to the sale price of large cigars to incorporate a clarification published in a prior TTB temporary rule that was finalized in 2012. Finally, this final rule makes permanent regulatory changes pertaining to importer permit requirements for tobacco products, and minimum manufacturing and marking requirements for tobacco products and cigarette papers and tubes.

Please see T.D. TTB–115 for a detailed discussion of the temporary regulatory amendments finalized by this document, as well as a detailed discussion of the various statutory changes and court actions necessitating regulatory amendments, the earlier related temporary rules and notices of proposed rulemaking issued by ATF (T.D. ATF–421, December 22, 1999, 64 FR 71918; Notice No. 887, December 22, 1999, 64 FR 71927; T.D. ATF–422, December 22, 1999, 64 FR 71947; and Notice No. 888, December 22, 1999, 64 FR 71955), the comments received by ATF on its temporary rules, and other ATF and TTB regulatory documents related to this rulemaking.

Public Disclosure

On the Federal e-rulemaking portal, "*Regulations.gov*," within Docket No. TTB–2013–0006, you may view copies of this final rule, the related temporary and proposed rules, the comment received in response to the proposed rule, and all other related final and temporary rules and notices of proposed rulemaking issued by ATF and TTB related to this matter. A direct link to that docket is posted on the TTB Web site at *https://www.ttb.gov/tobacco/tobacco-rulemaking.shtml* under Notice No. 137. You may also reach that docket through the *Regulations.gov* search page at *https://www.regulations.gov*.

You also may view copies of those documents at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20220. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact TTB's information specialist at the above address or by telephone at 202–453–2270 to schedule a viewing appointment or to request copies.

Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. chapter 6), we certify that these regulations will not have a significant economic impact on a substantial number of small entities. Any effects of this rulemaking on small businesses flow directly from the underlying statutes. Accordingly, a regulatory flexibility analysis is not required. These regulations also reduce the administrative burden on importers of tobacco products and processed tobacco by requiring that they renew their permits only every five years rather than every three years. Pursuant to 26 U.S.C. 7805(f), TTB submitted the temporary regulations and notice of proposed rulemaking to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the regulations on small businesses; TTB received no comment in reply.

Executive Order 12866

Certain regulations issued pursuant to the IRC, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required.

Paperwork Reduction Act

The collections of information in the regulations contained in this final rule have been previously reviewed and approved by Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3504(h)) and assigned control numbers 1513–0002, 1513–0068, 1513–0070, 1513–0078, 1513–0106, and 1513–0107. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. The temporary rule did not impose a new collection of information, and this final rule makes no changes to the temporary rule.

The list of collections of information in the regulations contained in the temporary rule inadvertently omitted control number 1513–0002, which authorizes the collection of information on TTB Form 5000.9, the Personnel Questionnaire. The changes made in the temporary rule increased the paperwork burden associated with the control number by requiring additional submissions of the form. TTB requested comment on the increased number of respondents and total annual burden hours in a document published in the **Federal Register** on March 12, 2015 (Comment Request No. 51, 80 FR 13072). Based on a comment on TTB Form 5000.9, TTB proposed revisions to the form in a document published in the **Federal Register** on January 13, 2016 (Comment Request No. 57, 81 FR 1679); comments on this notice were due on March 14, 2016.

TTB will submit the information collection requirements described in the notice to the Office of Management and Budget for approval. When OMB takes action on the changes, TTB will publish a document in the **Federal Register**.

Drafting Information

Michael D. Hoover of the Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, drafted this document.

List of Subjects

27 CFR Part 40

Cigars and cigarettes, Claims, Electronic funds transfers, Excise taxes Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco.

27 CFR Part 41

Cigars and cigarettes, Claims, Customs duties and inspection, Electronic fund transfers, Excise taxes, Imports, Labeling, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Virgin Islands, Warehouses.

27 CFR Part 44

Aircraft, Armed forces, Cigars and cigarettes, Claims, Customs duties and inspection, Excise taxes, Exports, Foreign trade zones, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Vessels, Warehouses.

Amendments to the Regulations

Accordingly, the temporary rule that amended 27 CFR, chapter I, parts 40, 41, and 44, and published as T.D. TTB–115 at 78 FR 38555 on June 27, 2013, is adopted as a final rule without change.

Signed: March 28, 2016.

John J. Manfreda,

Administrator.

Approved: April 12, 2016.

Timothy E. Skud,

Deputy Assistant Secretary. (Tax, Trade, and Tariff Policy).

[FR Doc. 2016–14358 Filed 6–20–16; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2016–0010]

RIN 1625–AA08

Special Local Regulation; Bucksport/Southeastern Drag Boat Summer Extravaganza, Atlantic Intracoastal Waterway; Bucksport, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the Atlantic Intracoastal Waterway in Bucksport, South Carolina during the Bucksport/Southeastern Drag Boat Summer Extravaganza, on July 9, 2016 and July 10, 2016. This special local regulation is necessary to ensure the safety of participants, spectators, and the general public during the event. This regulation prohibits persons and vessels from being in the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This rule is effective from July 9, 2016 through July 10, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type USCG–2016–0010 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant John Downing, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *John.Z.Downing@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On December 27, 2015, the Bucksport Marina notified the Coast Guard that it will sponsor a series of drag boat races from noon to 7 p.m. on July 9, 2016 and July 10, 2016. In response, on April 6, 2016, the Coast Guard published a notice of proposed rulemaking titled Bucksport/Southeastern Drag Boat Summer Extravaganza, Atlantic Intracoastal Waterway; Bucksport, SC. There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this special local regulation. During the comment period that ended May 6, 2016, we received no comments.

Under good cause provisions in 5 U.S.C. 553(d)(3), we are making this rule effective less than 30 days after its publication in the **Federal Register**. The Coast Guard finds that good cause exists for making this rule effective starting July 9, 2016 because this special local regulation is necessary to ensure the safety of life and property during the Bucksport Summer Extravaganza and it would be contrary to public interest not to make this rule effective by July 9, 2016.

III. Legal Authority and Need for Rule

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to insure safety of life on navigable waters of the United States during the two days of drag boat races.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published April 6, 2016. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

From July 9, 2016 through July 10, 2016, Bucksport Marina will host a series of drag boat races on the Atlantic Intracoastal Waterway in Bucksport, South Carolina during the Bucksport/Southeastern Drag Boat Summer Extravaganza. Approximately 75 powerboats are anticipated to participate in the races and approximately 35 spectator vessels are expected to attend the event. This rule establishes a special local regulation on certain waters on the Atlantic Intracoastal Waterway in Bucksport, South Carolina. The special local regulation will be enforced daily from noon until 7 p.m. on July 9, 2016 and July 10, 2016.

Except for those persons and vessels participating in the drag boat races, persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within any of the race areas unless specifically authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels desiring to enter, transit through, anchor in, or remain within any of the race areas may contact the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the race areas is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative. The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget. This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) Non-participant persons and vessels may enter, transit through, anchor in, or remain within the regulated area during the enforcement periods if authorized by the Captain of the Port Charleston or a designated representative; (2) vessels not able to enter, transit through, anchor in, or remain within the regulated area without authorization from the Captain of the Port Charleston or a designated representative may operate in the surrounding areas during the enforcement period; (3) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners; and (4) the safety zone will impact only a small designated area of the Atlantic Intracoastal Waterway for the 2 days of July 9, and 10, from noon to 7 p.m., and thus is limited in time and scope.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: The owner or operators of vessels intending to enter, transit through, anchor in, or remain within the regulated area during the enforcement period. For the reasons discussed in Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction.

An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100— SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary § 100.35T07–0010 to read as follows:

§ 100.35T07–0010 Bucksport/Southeastern Drag Boat Summer Extravaganza, Atlantic Intracoastal Waterway; Bucksport, SC.

(a) *Regulated Area.* All waters of the Atlantic Intracoastal Waterway encompassed by a line connecting the following points: Point 1 in position 33°39′13″ N, 079°05′36″ W; thence west to point 2 in position 33°39′17″ N, 079°05′46″ W; thence south to point 3 in position 33°38′53″ N, 079°05′39″ W; thence east to point 4 in position 33°38′54″ N, 079°05′31″ W; thence north back to point 1. All coordinates are North American Datum 1983.

(b) *Definition.* As used in this section, "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area, except persons and vessels participating in Bucksport/Southeastern Drag Boat Summer Extravaganza or serving as safety vessels. Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(2) The Coast Guard will provide notice of the regulated area by Marine Safety Information Bulletins, Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement Date.* This rule will be enforced daily on July 9 and July 10, 2016, from noon until 7 p.m.

Dated: June 13, 2016.

G.L. Tomasulo,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

[FR Doc. 2016–14541 Filed 6–20–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0004]

RIN 1625–AA00

Safety Zone; Misery Challenge, Manchester Bay, Manchester, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of Manchester Bay to be enforced during the Misery Challenge marine event, which will involve swimmers, kayakers, and stand-up paddlers. This safety zone ensures the protection of the event participants, support vessels, and the maritime public from the hazards associated with the event. This regulation prohibits persons and vessels from entering into, transiting through, mooring, or anchoring within this safety zone during periods of enforcement unless authorized by the Coast Guard Sector Boston Captain of the Port (COTP) or the COTP's designated representative.

DATES: This rule is effective from 7:00 a.m. to 12:30 p.m. on July 23, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0004 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email, call or email Mr. Mark Cutter, Sector Boston Waterways Management Division, U.S. Coast Guard; telephone 617–223–4000, email *Mark.E.Cutter@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

DHS	Department of Homeland Security
U.S.C.	United States Code
CFR	Code of Federal Regulations
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
NAD 83	North American Datum of 1983
§	Section

II. Background, Purpose, and Legal Basis

On October 23, 2015, the Coast Guard was notified of a swimming and stand up paddling event from 7:30 a.m. to 12 p.m. on July 23, 2016 with a weather date on July 24, 2016 named the Misery Challenge. The participants will launch from Tucks Point in Manchester Bay, Manchester, MA and continue around Greater Misery Island returning to Tucks Point. In response, on March 2, 2016, the Coast Guard published an NPRM titled Safety Zone; Misery Challenge, Manchester Bay, Manchester, MA (81 FR 10820). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this event. During the comment period that ended April 1, 2016, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP Boston has determined that potential hazards associated with the event on July 23, 2016 will be a safety concern for the participants and support vessels. The purpose of this rule is to ensure safety of participants, vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Proposed Rule

As noted above, we received no comments on our NPRM published on March 2, 2016. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 7:00 a.m. to 12:30 p.m. on July 23, 2016 with a weather date on July 24, 2016. The safety zone will cover all navigable waters within specific geographic locations specified in the regulatory text on the navigable waters of Manchester Bay, Manchester, Massachusetts. Vessels not associated with the event shall maintain a distance of at least 100 yards from the participants. The duration of the zone is intended to ensure the safety of event participants, support vessels, and the maritime public before, during, and after the event scheduled from 7:30 a.m. to 12 p.m. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text appears at the end of this document.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

We expect the economic impact of this rule to be minimal. This regulation may have some impact on the public, but that potential impact will likely be minimal for several reasons. First, this safety zone will be in effect for only 5 and ½ hours in the morning when vessel traffic is expected to be light. Second, vessels may enter or pass through the safety zone during an enforcement period with the permission of the COTP or the designated representative. Finally, the Coast Guard will provide notification to the public through Broadcast Notice to Mariners well in advance of the event.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

For all of the reasons discussed in the Regulatory Planning and Review section, this rule would not have a significant economic impact on a substantial number of small entities.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 5 and 1/2 hours that would prohibit entry within 100 yards of the participants and vessels in support of the event. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C., 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a new § 165.T01–0188 to read as follows:

§ 165.T01–0188 Safety Zone—Misery Challenge—Manchester Bay, Manchester, Massachusetts.

(a) *General*. Establish a temporary safety zone:

(1) *Location*. The following area is a safety zone: All navigable waters, from surface to bottom, within 100 yards from the participants and vessels in support of events in Manchester Bay, Manchester, Massachusetts, and enclosed by a line connecting the following points (NAD 83):

Latitude	Longitude
42°34′03″ N.	70°46′42″ W.; thence to
42°33′58″ N.	70°46′33″ W.; thence to
42°32′30″ N.	70°47′43″ W.; thence to
42°32′58″ N.	70°48′40″ W.; thence to

point of origin.

(2) *Effective and Enforcement Period*. This rule will be effective on July 23, 2016, from 7:00 a.m. to 12:30 p.m. with a weather date on July 24, 2016.

(b) *Regulations*. While this safety zone is being enforced, the following regulations, along with those contained in 33 CFR 165.23 apply:

(1) No person or vessel may enter or remain in this safety zone without the permission of the Captain of the Port (COTP) or the COTP's representatives. However, any vessel that is granted permission by the COTP or the COTP's representatives must proceed through the area with caution and operate at a speed no faster than that speed

necessary to maintain a safe course, unless otherwise required by the Navigation Rules.

(2) Any person or vessel permitted to enter the safety zone shall comply with the directions and orders of the COTP or the COTP's representatives. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights, or other means, the operator of a vessel within the zone shall proceed as directed. Any person or vessel within the safety zone shall exit the zone when directed by the COTP or the COTP's representatives.

(3) To obtain permissions required by this regulation, individuals may reach the COTP or a COTP representative via VHF channel 16 or 617–223–5757 (Sector Boston Command Center).

(c) *Penalties.* Those who violate this section are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 1226.

(d) *Notification.* Coast Guard Sector Boston will give notice through the Local Notice to Mariners and Broadcast Notice to Mariners for the purpose of enforcement of this temporary safety zone. Sector Boston will also notify the public to the greatest extent possible of any period in which the Coast Guard will suspend enforcement of this safety zone.

(e) *COTP Representative.* The COTP's representative may be any Coast Guard commissioned, or petty officer or any federal, state, or local law enforcement officer who has been designated by the COTP to act on the COTP's behalf. The COTP's representative may be on a Coast Guard vessel, a Coast Guard Auxiliary vessel, a state or local law enforcement vessel, or a location on shore.

Dated: June 13, 2016.

C.C. Gelzer,

Captain, U.S. Coast Guard, Captain of the Port Boston.

[FR Doc. 2016–14642 Filed 6–20–16; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Part 370

[Docket No. RM 2008–7]

Notice and Recordkeeping for Use of Sound Recordings Under Statutory License; Technical Amendment

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule; technical amendment.

SUMMARY: The Copyright Royalty Judges published in the **Federal Register** of May 19, 2016, a document amending regulations that govern reporting requirements for noncommercial educational webcasters that pay no more than the minimum fee for their use of sound recordings under the applicable statutory licenses. Inadvertently, the amendments did not remove a superseded definition and did not include a new defined term in the operative regulations. This document corrects those inadvertent omissions.

DATES: *Effective Date:* June 21, 2016.

Applicability Date: May 19, 2016.

FOR FURTHER INFORMATION CONTACT: Kimberly Whittle at (202) 707–7658 or at *crb@loc.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

The Copyright Royalty Judges (Judges) published a final rule in the **Federal Register** of May 19, 2014, (81 FR 31506) that added a new term, Eligible Minimum Fee Webcaster, to the definition section of 37 CFR 370.4. In doing so, the Judges intended to expand relaxed reporting requirements to certain noncommercial educational webcasters that previously had been excluded from such relaxed requirements. The Judges added those webcasters to the group and renamed the group to more precisely describe the members. The new term for the group is "Eligible Minimum Fee Webcaster." The new definition includes all entities that qualified under the previous "Minimum Fee Broadcaster" definition and certain noncommercial educational webcasters.

The amended regulation inadvertently did not reference the new term "Eligible Minimum Fee Webcaster" in the relevant sections of part 370, namely, 37 CFR 370.4(d)(2)(vi) and (vii) and 370.4(d)(3)(i) and (ii). The amended regulation also should have removed the "Minimum Fee Broadcaster" definition, which is no longer necessary.

The Judges now make the necessary changes to clarify that the reporting requirements in Part 370 that applied to "Minimum Fee Broadcasters" now apply to the more inclusive group, "Eligible Minimum Fee Webcasters."

Final Regulations

In consideration of the foregoing, the Copyright Royalty Judges amend 37 CFR part 370 as follows:

PART 370—NOTICE AND RECORDKEEPING REQUIREMENTS FOR STATUTORY LICENSES

■ 1. The authority citation for part 370 continues to read as follows:

Authority: 17 U.S.C. 112(e)(4), 114(f)(4)(A).

■ 2. In § 370.4:

■ a. In paragraph (b), remove the definition of "Minimum Fee Broadcaster";

■ b. Revise paragraphs (d)(2)(vi) and (vii) and (d)(3)(i) and (ii).

The revisions read as follows:

§ 370.4 Reports of use of sound recordings under statutory license for nonsubscription transmission services, preexisting satellite digital audio radio services, new subscription services and business establishment services.

* * * * *

(d) * * *

(2) * * *

(vi) For a nonsubscription transmission service except those qualifying as eligible minimum fee webcasters: The actual total performances of the sound recording during the reporting period.

(vii) For a preexisting satellite digital audio radio service, a new subscription service, a business establishment service or a nonsubscription service qualifying as an eligible minimum fee webcaster: The actual total performances of the sound recording during the reporting period or, alternatively, the

(A) Aggregate Tuning Hours;

(B) Channel or program name; and

(C) Play frequency.

(3) * * *

(i) For each calendar month of the year by all services other than a nonsubscription service qualifying as an eligible minimum fee webcaster; or

(ii) For a two-week period (two periods of 7 consecutive days) for each calendar quarter of the year by a nonsubscription service qualifying as an eligible minimum fee webcaster and the two-week period need not consist of consecutive weeks, but both weeks must be completely within the calendar quarter.

* * * * *

Dated: June 13, 2016.

Suzanne M. Barnett,

Chief Copyright Royalty Judge.

Approved by:

David S. Mao,

Acting Librarian of Congress.

[FR Doc. 2016–14572 Filed 6–20–16; 8:45 am]

BILLING CODE 1410–72–P

POSTAL SERVICE

39 CFR Parts 952, 953, 954, 955, 958, 959, 962, 963, 964, 965

Rules of Procedure Before the Judicial Officer

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This document amends the rules of practice prescribed by the Judicial Officer to implement an electronic filing system and to clarify the assigning judge in matters governed by the Administrative Procedure Act.

DATES: *Effective date:* July 21, 2016.

FOR FURTHER INFORMATION CONTACT: Diane Mego, (703) 812–1900, Postal Service Judicial Officer Department, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078.

SUPPLEMENTARY INFORMATION:

A. Background

Changes to the rules of practice are necessary to accommodate the Judicial Officer Department's electronic filing system and establish rules relative to that system; for the Chief Administrative Law Judge to assign the presiding judge in cases governed by the Administrative Procedure Act, 5 U.S.C. 551, *et seq.;* and to delete the automatic scheduling of a hearing upon receipt of a mailability appeal. Changes to the authority citations are necessary to identify the authority for adjudicating each type of case, as well as the Chief Administrative Law Judge's authority for adjudicating them under the Administrative Procedure Act.

B. Explanation of Changes

Amendments to 39 CFR Part 952

The authority citation is revised to identify the authority for adjudicating this type of case, as well as the Chief Administrative Law Judge's authority for adjudicating it under the Administrative Procedure Act.

In § 952.4, the heading is revised to *Office business hours; electronic filing,* and the text is amended as follows:

- The existing paragraph is designated paragraph (a), and is amended to clarify the office hours.
- Paragraph (b) is added to identify the Internet address for the electronic filing system.

In § 952.9, the heading is revised to *Filing; docketing and serving documents,* and the text is amended as follows:

- Paragraph (a) is amended to indicate that electronic filing is required and when documents submitted by parties are considered received.
- Paragraph (b) is amended to include electronic filing and when service of documents on the opposing party is required.
- Paragraphs (c) and (d) are deleted.

Amendments to 39 CFR Part 953

The authority citation is revised to identify the authority for adjudicating this type of case, as well as the Chief Administrative Law Judge's authority for adjudicating it under the Administrative Procedure Act.

In § 953.2, concerning initiation, the text is amended to identify the Internet address for the electronic filing system. In § 953.4, the heading is revised to *Filing, docketing and serving documents; service of notice; reply; motion for summary judgment.* The text of § 953.4 is amended to indicate that electronic filing is required, delete the automatic scheduling of a hearing, indicate when documents submitted by the parties are considered received, provide for service on appellant by the Postal Service, and indicate when service of documents on the opposing party is required for purposes of the electronic filing system.

In § 953.10, concerning presiding officers, the text is amended to have the Chief Administrative Law Judge assign cases.

Amendments to 39 CFR Part 954

The authority citation is revised to identify the authority for adjudicating this type of case, as well as the Chief Administrative Law Judge's authority for adjudicating it under the Administrative Procedure Act.

In § 954.4, the heading is revised to *Office business hours; electronic filing* and the text is amended as follows:

- The existing paragraph is designated paragraph (a) and is amended to clarify the office hours.
- Paragraph (b) is added to identify the Internet address for the electronic filing system.

In § 954.8, concerning pleading, paragraph (a) is amended to indicate electronic filing is required, when documents submitted by parties are considered received, and to indicate when service of documents on the opposing party is required for purposes of the electronic filing system.

Amendments to 39 CFR Part 955

In § 955.1, concerning jurisdiction, procedure, and service of documents in proceedings before the Board, paragraph (b)(1) is amended to update the Internet address for the electronic filing system.

Amendments to 39 CFR Part 958

The authority citation is revised to identify the Chief Administrative Law Judge's authority for adjudicating this type of case under the Administrative Procedure Act.

In § 958.2, concerning definitions, paragraph (g) is amended to have the Chief Administrative Law Judge assign cases.

In § 958.19, concerning form and filing of documents, paragraph (b) is amended to indicate electronic filing is required, identify the Internet address for the electronic filing system, and indicate when documents submitted by the parties are considered received.

In § 958.20, the heading is revised to *Service,* and the text is revised to indicate when service of documents on the opposing party is required for purposes of the electronic filing system.

Amendments to 39 CFR Part 959

The authority citation is revised to identify the authority for adjudicating this type of case, as well as the Chief Administrative Law Judge's authority for adjudicating it under the Administrative Procedure Act.

In § 959.3, the heading is revised to *Office address and business hours; electronic filing.* The text is revised to clarify the office hours and new paragraph (b) is added to identify the Internet address for the electronic filing system.

In § 959.9, concerning filing documents for the record, the following paragraphs are amended:

- Paragraph (a) is amended to require electronic filing and indicate when service of documents on the opposing party is required for purposes of the electronic filing system.
- Paragraph (b) is deleted.
- Paragraph (c) is redesignated as paragraph (b) and revised to include when documents submitted by the parties are considered received.

Amendments to 39 CFR Part 962

The authority citation is revised to identify the Chief Administrative Law Judge's authority for adjudicating this case type under the Administrative Procedure Act.

In § 962.2, concerning definitions, paragraph (i) is amended to have the Chief Administrative Law Judge assign cases.

In § 962.22, concerning form and filing of documents:

- Paragraph (a) is amended to require electronic filing and identify the Internet address for the electronic filing system.
- Paragraph (b) is amended to indicate when documents submitted by the parties are considered received.

In § 962.23, the heading is revised to *Service,* and the text is revised to indicate when service of documents on the opposing party is required for purposes of the electronic filing system.

Amendments to 39 CFR Part 963

In § 963.3, the heading is revised to *Petition; notice of hearing; answer; filing of documents; summary judgment,* and the text is revised as follows:

- The last sentence of paragraph (a) is amended to identify the Internet address for the electronic filing system.
- Paragraph (d) is amended to indicate that electronic filing is required, when documents submitted by parties are considered received, and when service of documents on the opposing party is required for purposes of the electronic filing system.

Amendments to 39 CFR Part 964

The authority citation is revised to identify the Chief Administrative Law Judge's authority for adjudicating this type of case under the Administrative Procedure Act.

In § 964.3, the heading is revised to *Customer petitions, notice of hearing; answer; summary judgment; filing and service,* and the text is revised as follows:

- Paragraph (a) is amended to indicate that electronic filing is required and identify the Internet address for the electronic filing system
- Paragraph (e), *Filing and service,* is added to indicate that electronic filing is required, when documents submitted by parties are considered received, and when service of documents on the opposing party is required for purposes of the electronic filing system.

In § 964.7, concerning presiding officers, the text is amended to have the Chief Administrative Law Judge assign cases.

Amendments to 39 CFR Part 965

In § 965.5, concerning initial submissions by parties, the text is revised to indicate that electronic filing is required, and to identify the Internet address for the electronic filing system.

List of Subjects

39 CFR Part 952

Administrative practice and procedure, Fraud, Lotteries, Postal Service.

39 CFR Part 953

Administrative practice and procedure, Mailability, Postal Service.

39 CFR Part 954

Administrative practice and procedure, Periodicals, Postal Service.

39 CFR Part 955

Administrative practice and procedure, government contracts, Postal Service.

39 CFR Part 958

Administrative practice and procedure, Postal Service.

39 CFR Part 959

Administrative practice and procedure, Privacy, Postal Service.

39 CFR Part 962

Administrative practice and procedure, Fraud, Postal Service.

39 CFR Part 963

Administrative practice and procedure, Advertising, Postal Service.

39 CFR Part 964

Administrative practice and procedure, Fictitious names or addresses, Fraud, Postal Service.

39 CFR Part 965

Administrative practice and procedure, Mail Disputes, Postal Service.

Accordingly, for the reasons stated, the Postal Service amends 39 CFR parts 952, 953, 954, 955, 958, 959, 962, 963, 964, and 965 as follows:

PART 952—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO FALSE REPRESENTATION AND LOTTERY ORDERS

■ 1. Revise the authority citation for 39 CFR Part 952 to read as follows:

Authority: 39 U.S.C. 204, 401, 3001, 3005, 3012, 3016; 5 U.S.C. 554.

■ 2. Revise § 952.4 to read as follows:

§ 952.4 Office business hours; electronic filing.

(a) The offices of the officials identified in these rules are located at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078. Normal business hours are between 8:45 a.m. and 4:45 p.m. (Eastern Time), Monday through Friday except holidays.

(b) The Judicial Officer electronic filing system Web site is accessible 24 hours a day at *https://uspsjoe.justware.com/justiceweb.*

■ 3. Revise § 952.9 to read as follows:

§ 952.9 Filing; docketing and serving documents.

(a) Unless the presiding officer permits otherwise, all documents must be filed using the electronic filing system. Documents submitted using the electronic filing system are considered filed as of the date/time (Eastern Time) reflected in the system. Documents mailed to the Recorder are considered filed on the date mailed as evidenced by a United States Postal Service postmark. Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours. Discovery need not be filed except as may be sought to be included in the record, or as may be ordered by the presiding officer.

(b) Documents shall be dated and state the docket number and title of the proceeding. Any pleading or other document required by order of the presiding officer to be filed by a specified date must be received in the electronic filing system or by the Recorder on or before such date. If both parties are participating in the electronic filing system, separate service upon the opposing party is not required. Otherwise, documents shall be served personally or by mail on the opposing party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished.

PART 953—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO MAILABILITY

■ 4. Revise the authority citation for 39 CFR Part 953 to read as follows:

Authority: 39 U.S.C. 204, 401, 3001; 5 U.S.C. 554.

■ 5. Revise § 953.2 to read as follows:

§ 953.2 Initiation.

Mailability proceedings are initiated upon the filing of an appeal in the Judicial Officer electronic filing system at *https://uspsjoe.justware.com/justiceweb* or with the Recorder, Judicial Officer Department, U.S. Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078.

■ 6. Revise § 953.4 to read as follows:

§ 953.4 Filing, docketing and serving documents; service of notice; reply; motion for summary judgment.

(a) *Filing.* Unless the presiding officer permits otherwise, all documents must be filed using the electronic filing system. Documents submitted using the electronic filing system are considered filed as of the date/time (Eastern Time) reflected in the system. Documents mailed to the Recorder are considered filed on the date mailed as evidenced by a United States Postal Service postmark. Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours. Normal business hours are between 8:45 a.m. and 4:45 p.m. (Eastern Time), Monday through Friday except holidays. If both parties are participating in the electronic filing system, separate service upon the opposing party is not required. Otherwise, documents shall be served personally or by mail on the opposing party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished.

(b) *Service of notice.* (1) Upon receiving the appeal, the Recorder shall issue a notice specifying that the Postal Service General Counsel's or Chief Postal Inspector or his or her designee's reply shall be filed within 15 days of receipt of the notice.

(2) The Recorder shall promptly serve this notice on the parties as follows:

(i) The notice, with a copy of the appeal, shall be sent to the General Counsel or the Chief Postal Inspector or his or her designee.

(ii) When the appellant's address is within the United States, the notice, with a copy of the appeal, shall be sent to the postmaster at the office that delivers mail to the appellant's address. The postmaster shall be instructed that, acting personally or through a supervisory employee or a postal inspector, he or she is to serve these documents on the appellant. If the appellant cannot be found within 3 days, the postmaster shall send these documents to the appellant by ordinary mail and forward a statement to the Recorder that is signed by the delivering employee and that specifies the time and place of delivery.

(iii) When the appellant's address is outside the United States, the notice, with a copy of the appeal, shall be sent to the appellant by registered mail, return receipt requested. A written statement by the Recorder, noting the time and place of mailing, shall be accepted as proof of service in the event a signed and dated return receipt is not received.

(c) *Reply.* The General Counsel, the Chief Postal Inspector, or that officer's designee shall file a reply within the aforementioned 15-day period or any period granted by the presiding officer for good cause shown. If the reply so filed fails to address any additional allegation in the appeal, that allegation shall be deemed admitted.

(d) *Motion for summary judgment.* Upon motion of the General Counsel, the Chief Postal Inspector, that officer's designee, or the appellant, or on the presiding officer's own initiative, the presiding officer may find that the appeal and answer present no genuine and material issues of fact requiring an evidentiary hearing, and thereupon may render an initial decision upholding or reversing the determination or ruling. The initial decision shall become the final Agency decision if a timely appeal is not taken.

■ 7. Revise § 953.10 to read as follows:

§ 953.10 Presiding Officers.

The presiding officer at any hearing shall be an Administrative Law Judge qualified in accordance with law or the Judicial Officer (39 U.S.C. 204). The Chief Administrative Law Judge shall assign cases. The Judicial Officer may preside at the hearing if an Administrative Law Judge is unavailable.

PART 954—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE DENIAL, SUSPENSION, OR REVOCATON OF PERIODICALS MAIL PRIVILEGES

■ 8. Revise the authority citation for 39 CFR part 954 to read as follows:

Authority: 39 U.S.C. 204, 401, 3685; 5 U.S.C. 554.

■ 9. Revise § 954.4 to read as follows:

§ 954.4 Office business hours; electronic filing.

(a) The offices of the officials identified in these rules are located at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078. Normal Business hours are between 8:45 a.m. and 4:45 p.m. (Eastern Time), Monday through Friday except holidays.

(b) The Judicial Officer electronic filing system Web site is accessible 24 hours a day at *https://uspsjoe.justware.com/justiceweb.*

■ 10. In § 954.8, paragraph (a) is revised to read as follows:

§ 954.8 Pleading.

(a) *Filing and service.* All documents required under this part must be filed using the electronic filing system unless the presiding officer permits otherwise. Documents submitted using the electronic filing system are considered filed as of the date/time (Eastern Time) reflected in the system. Documents mailed to the Recorder are considered filed on the date mailed as evidenced by a United States Postal Service postmark. Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours. If both parties are participating in the electronic filing system, separate service upon the opposing party is not required. Otherwise, documents shall be served personally or by mail on the opposing party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished. The Recorder shall maintain a docket and the files in all proceedings.

* * * * *

PART 955—RULES OF PRACTICE BEFORE THE POSTAL SERVICE BOARD OF CONTRACT APPEALS

■ 11. The authority citation for 39 CFR part 955 continues to read as follows:

Authority: 39 U.S.C. 204, 401; 41 U.S.C. 7101–7109.

■ 12. In § 955.1, revise the final sentence of paragraph (b)(1) to read as follows:

§ 955.1 Jurisdiction, procedure, service of documents.

* * * * *

(b) * * *

(1) * * * The Web site for electronic filing is *https://uspsjoe.justware.com/justiceweb.*

* * * * *

PART 958—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO CIVIL PENALTIES, CLEAN-UP COSTS AND DAMAGES FOR VIOLATION OF HAZARDOUS MATERIAL REGULATIONS

■ 13. Revise the authority citation for 39 CFR part 958 to read as follows:

Authority: 39 U.S.C. 204, 401, 3001, 3018; 5 U.S.C. 554.

■ 14. In § 958.2, revise paragraph (g) to read as follows:

§ 958.2 Definitions.

* * * * *

(g) *Presiding Officer* refers to an Administrative Law Judge designated by the Chief Administrative Law Judge to conduct a hearing, or to the Judicial Officer, if an Administrative Law Judge is not available.

* * * * *

■ 15. In § 958.19, revise paragraph (b) to read as follows:

§ 958.19 Form and Filing of documents.

* * * * *

(b) All pleadings and documents required under this part must be filed using the Judicial Officer electronic filing system unless the presiding officer permits otherwise. The Judicial Officer electronic filing system Web site is accessible 24 hours a day at *https://uspsjoe.justware.com/justiceweb.* Documents submitted using the electronic filing system are considered filed as of the date/time (Eastern Time) reflected in the system. Documents mailed to the Recorder are considered filed on the date mailed as evidenced by a United States Postal Service postmark. Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours. Normal business hours are between 8:45 a.m. and 4:45 p.m. (Eastern Time), Monday through Friday except holidays.

* * * * *

■ 16. Revise § 958.20 to read as follows:

§ 958.20 Service.

If both parties are participating in the electronic filing system, separate service upon the opposing party is not required. Otherwise, documents shall be served personally or by mail on the opposing party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished.

PART 959—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE PRIVATE EXPRESS STATUTES

■ 17. Revise the authority citation for 39 CFR part 959 to read as follows:

Authority: 39 U.S.C. 204, 401; 601–606; 18 U.S.C. 1693–1699; 5 U.S.C. 554; 39 CFR 310, 320.

■ 18. Revise § 959.3 to read as follows:

§ 959.3 Office address and business hours; electronic filing

(a) The offices of the officials identified in these rules are located at 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078. Normal Business hours are between 8:45 a.m. and 4:45 p.m. (Eastern Time), Monday through Friday except holidays.

(b) The Judicial Officer electronic filing system Web site is accessible 24 hours a day at *https://uspsjoe.justware.com/justiceweb.*

■ 19. Revise § 959.9 to read as follows:

§ 959.9 Filing documents for the record.

(a) All documents required under this part must be filed using the electronic filing system unless the presiding officer permits otherwise. If both parties are participating in the electronic filing system, separate service upon the opposing party is not required. Otherwise, documents shall be served personally or by mail on the opposing party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished.

(b) Documents shall be dated and state the title of the proceeding and, except initial petitions, the docket number. Documents submitted using the electronic filing system are considered filed as of the date/time (Eastern Time) reflected in the system. Documents mailed to the Recorder are considered filed on the date mailed as evidenced by a United States Postal Service postmark. Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours.

PART 962—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE PROGRAM FRAUD CIVIL REMEDIES ACT

■ 20. Revise the authority citation for 39 CFR part 962 to read as follows:

Authority: 31 U.S.C. 3801–12; 39 U.S.C. 401; 5 U.S.C. 554.

■ 21. In § 962.2, revise paragraph (i) to read as follows:

§ 962.2 Definitions.

* * * * *

(i) *Presiding Officer* refers to an Administrative Law Judge designated by the Chief Administrative Law Judge to conduct a hearing authorized by 31 U.S.C. 3803.

* * * * *

■ 22. In § 962.22, revise the introductory text of paragraph (a) and revise paragraph (b) to read as follows:

§ 962.22 Form and filing of documents.

(a) All pleadings and documents required under this part must be filed using the Judicial Officer electronic filing system unless the presiding officer permits otherwise. The Judicial Officer electronic filing system Web site is accessible 24 hours a day at *https://uspsjoe.justware.com/justiceweb.* Every pleading filed in a proceeding under this part must:

* * * * *

(b) Documents submitted using the electronic filing system are considered filed as of the date/time (Eastern Time) reflected in the system. Documents mailed to the Recorder are considered filed on the date mailed as evidenced by a United States Postal Service postmark. Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours. Normal business hours are between 8:45 a.m. and 4:45 p.m. (Eastern Time), Monday through Friday except holidays.

* * * * *

■ 23. Revise § 962.23 to read as follows:

§ 962.23 Service.

If both parties are participating in the electronic filing system, separate service upon the opposing party is not required. Otherwise, documents shall be served personally or by mail on the opposing party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished.

PART 963—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO VIOLATIONS OF THE PANDERING ADVERTISEMENTS STATUTE, 39 U.S.C. 3008

■ 24. The authority citation for 39 CFR part 963 continues to read as follows:

Authority: 39 U.S.C. 204, 401, 3008.

■ 25. In § 963.3, the final sentence of paragraph (a) is revised and paragraph (d) is revised to read as follows:

§ 963.3 Petition; notice of hearing; answer; filing; summary judgment.

(a) * * * The Manager will forward each timely petition to the Recorder through the Judicial Officer Department electronic filing system at *https://uspsjoe.justware.com/justiceweb.*

* * * * *

(d) *Filing.* All documents required under this part must be filed using the electronic filing system (*https://uspsjoe.justware.com/justiceweb*) unless the presiding officer permits otherwise. Documents submitted using the electronic filing system are considered filed as of the date/time (Eastern Time) reflected in the system. Documents mailed to the Recorder are considered filed on the date mailed as evidenced by a United States Postal Service postmark. Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours. Normal business hours are between 8:45 a.m. and 4:45 p.m. (Eastern Time), Monday through Friday except holidays. If both parties are participating in the electronic filing system, separate service upon the opposing party is not required. Otherwise, documents shall be served personally or by mail on the opposing party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished. The Recorder shall maintain a docket and the files in all proceedings.

* * * * *

PART 964—RULES OF PRACTICE GOVERNING DISPOSITION OF MAIL WITHHELD FROM DELIVERY PURSUANT TO 39 U.S.C. 3003, 3004

■ 26. Revise the authority citation for 39 CFR part 964 to read as follows:

Authority: 39 U.S.C. 204, 401, 3003, 3004; 5 U.S.C. 554.

■ 27. In § 964.3, revise the second and third sentences of paragraph (a), and add paragraph (e) to read as follows:

§ 964.3 Customer petitions; notice of hearing; answer; summary judgment; filing and service.

(a) *Petition.* * * * The Petition, signed by the Petitioner or his or her attorney, shall be filed via the Judicial Officer Electronic filing system at *https://uspsjoe.justware.com/justiceweb* or via certified mail to the Recorder, Judicial Officer Department, United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078. The Petition must be filed within 14 days of the date upon which the Petitioner received the notice. * * *

* * * * *

(e) *Filing and service.* All documents required under this part must be filed using the electronic filing system unless the presiding officer permits otherwise. Documents submitted using the electronic filing system are considered filed as of the date/time (Eastern Time) reflected in the system. Documents mailed to the Recorder are considered filed on the date mailed as evidenced by a United States Postal Service postmark. Filings by any other means are considered filed upon receipt by the Recorder of a complete copy of the filing during normal business hours. Normal business hours are between 8:45 a.m. and 4:45 p.m. (Eastern Time), Monday through Friday except holidays. If both parties are participating in the electronic filing system, separate service upon the opposing party is not required. Otherwise, documents shall be served personally or by mail on the opposing party, noting on the document filed, or on the transmitting letter, that a copy has been so furnished.

■ 28. In § 964.7, revise paragraph (a) to read as follows:

§ 964.7 Presiding officers.

(a) The presiding officer shall be an Administrative Law Judge qualified in accordance with law or the Judicial Officer. The Chief Administrative Law Judge shall assign cases. The Judicial Officer may preside at the hearing if an Administrative Law Judge is unavailable.

* * * * *

PART 965—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO MAIL DISPUTES

■ 29. The authority citation for 39 CFR part 965 continues to read as follows:

Authority: 39 U.S.C. 204, 401.

■ 30. Revise § 965.5 to read as follows:

§ 965.5 Initial submissions by parties.

Within 15 days after receipt of the Recorder's notice, each party shall file via the Judicial Officer electronic filing system (*https://uspsjoe.justware.com/justiceweb*) a sworn statement of the facts supporting its claim to receipt of the mail together with a copy of each document on which it relies in making such claim, and any arguments supporting its claim. Unless the presiding officer otherwise permits, all documents relative to this proceeding must be filed using the electronic filing system.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–14553 Filed 6–20–16; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 150903814–5999–02]

RIN 0648–XE679

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2016 commercial summer flounder quota to the Commonwealth of Virginia. These quota adjustments are necessary to comply with the Summer Flounder, Scup and Black Sea Bass Fishery Management Plan quota transfer provision. This announcement informs the public of the revised commercial quotas for Virginia and North Carolina.

DATES: Effective June 20, 2016, through December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth Scheimer, Fishery Management Specialist, (978) 281–9236.

SUPPLEMENTARY INFORMATION:

Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.110. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.102.

The final rule implementing Amendment 5 to the Summer Flounder Fishery Management Plan, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider the criteria in § 648.102(c)(2)(i)(A) through (C) in the evaluation of requests for quota transfers or combinations.

North Carolina is transferring 3,732 lb (1,693 kg) of summer flounder commercial quota to Virginia. This transfer was requested by North Carolina to repay landings by a North Carolina-permitted vessel that landed in Virginia under a safe harbor agreement.

The revised summer flounder quotas for calendar year 2016 are now: Virginia, 1,759,561 lb (798,123 kg); and North Carolina, 2,143,714 lb (972,372 kg) based on the initial quotas published in the 2016–2018 Summer Flounder, Scup and Black Sea Bass Specifications and previous 2016 quota transfers as referenced in Table 1.

TABLE 1—2016 SUMMER FLOUNDER QUOTA TRANSFERS

	2016 Specifications Initial Quota	Transfer No. 1	Transfer No. 2	Transfer No. 3
Quota Transfer		NC to MA, RI, NJ, and VA	NC to NJ and MA	VA to MA.
Federal Register	80 FR 80689	81 FR 12030	81 FR 22032	81 FR 24714.
Effective Date	January 1, 2016	March 7, 2016	April 13, 2016	April 26, 2016.
Publication Date	December 28, 2015	March 8, 2016	April 14, 2016	April 27, 2016.

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 16, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–14650 Filed 6–20–16; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 119
Tuesday, June 21, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket Number EERE–2013–BT–STD–0040]

RIN 1904–AC83

Energy Conservation Program: Energy Conservation Standards for Compressors; Extension of Comment Period

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Extension of public comment period.

SUMMARY: On May 19, 2016, the U.S. Department of Energy (DOE) published in the **Federal Register** a notice of proposed rulemaking (NOPR) for compressor energy conservation standards. This document announces an extension of the public comment period for submitting comments on the NOPR or any other aspect of the energy conservation standards rulemaking for compressors. The comment period is extended to August 17, 2016.

DATES: The comment period for the proposed rule published on May 19, 2016 (81 FR 31679), is extended. DOE will accept comments, data, and information regarding this rulemaking received no later than August 17, 2016.

ADDRESSES: Interested persons may submit comments, identified by docket number EERE–2013–BT–STD–0040 and/or Regulation Identifier Number (RIN) 1904–AC83, by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: AirCompressors2013STD0040@ee.doe.gov.* Include the docket number EERE–2013–BT–STD–0040 and/or RIN 1904–AC83 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies. [Please note that comments and CDs sent by mail are often delayed and may be damaged by mail screening processes.]
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone (202) 586–2945. If possible, please submit all items on CD, in which case it is not necessary to include printed copies.

Docket: The docket is available for review at *www.regulations.gov,* including **Federal Register** notices, framework documents, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The rulemaking Web page can be found at: *https://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/78.* The Web page contains a link to the docket for this document on the *www.regulations.gov* site. The *www.regulations.gov* Web page contains instructions on how to access all documents in the docket, including public comments.

FOR FURTHER INFORMATION CONTACT: Mr. James Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8654. Email: *Jim.Raba@ee.doe.gov.*

For legal issues, please contact Mr. Peter Cochran, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9496. Email: *Peter.Cochran@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On May 19, 2016, DOE published in the **Federal Register** a notice of proposed rulemaking (NOPR) for compressors. 81 FR 31679. The document provided for submitting written comments, data, and information by July 18, 2016. DOE has received a request from the Compressed Air & Gas Institute (CAGI), dated May 25, 2016, to provide additional time in which to submit comments pertaining to the rulemaking for compressors. This request can be found at: *https://www.regulations.gov/#!documentDetail;D=EERE-2013-BT-STD-0040-0039.* An extension of the comment period would allow additional time for CAGI and other interested parties to examine the data, information, and analysis presented in the compressors Technical Support Document (TSD), gather any additional data and information to address the proposed standards, and submit comments to DOE. The TSD can be found at: *https://www.regulations.gov/#!documentDetail;D=EERE-2013-BT-STD-0040-0037.* In view of the request from CAGI, DOE has determined that a 30-day extension of the public comment period is appropriate. The comment period is extended to August 17, 2016.

Issued in Washington, DC, on June 13, 2016.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2016–14480 Filed 6–20–16; 8:45 am]

BILLING CODE 6450–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 705

RIN 3133–AE58

Community Development Revolving Loan Fund

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) proposes to make several technical amendments to NCUA's rule governing the Community Development Revolving Loan Fund (CDRLF). The proposed amendments would make the rule more succinct and update it to improve its transparency, organization, and ease of use by credit unions.

DATES: Comments must be received on or before August 22, 2016.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web site: https://www.ncua.gov/regulation-supervision/Pages/rules/proposed.aspx.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include "[Your name] Comments on Proposed Rule 705, CDRLF Amendments" in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

FOR FURTHER INFORMATION CONTACT: Geetha Valiyil, Manager, Grants and Loans, Office of Small Credit Union Initiatives, or Justin Anderson, Senior Staff Attorney, Office of General Counsel, at 1775 Duke Street, Alexandria, VA 22314 or telephone (703) 518–6645 (Ms. Valiyil) or (703) 518–6540 (Mr. Anderson).

SUPPLEMENTARY INFORMATION:

A. Background

Congress created the CDRLF in 1979 with an initial appropriation of $6 million and transferred its exclusive administration to NCUA in 1986. The CDRLF is a source of financial support, in the form of loans and technical assistance grants, for credit unions serving predominantly low-income members. It also serves as a source of funding to help low-income credit unions respond to emergencies arising in their communities. The Board has delegated authority to the Office of Small Credit Union Initiatives to determine how to allocate the finite resources of the CDRLF among qualifying credit unions. Awards provided through the CDRLF have strengthened credit unions by enabling them to increase their capacity to support the communities in which they operate. This increased capacity has allowed credit unions to provide basic financial services to low-income residents in those communities, resulting in more opportunities for residents to improve their financial circumstances.

In 2011, the Board substantially revised Part 705 to make the rule clearer and more user friendly, as well as to eliminate outdated and unnecessary provisions.[1] The proposed amendments in this rule are largely technical in nature or help to clarify NCUA's practices with respect to disbursing money from the CDRLF.

B. Section by Section Analysis

§ 705.1. Authority, Purpose and Scope. The Board proposes to reorganize this section to make it clearer, including deleting unnecessary provisions. These proposed amendments do not include any substantive changes.

§ 705.2. Definitions. The Board proposes to remove the definitions of the terms "Board," "Credit Union," and "Fund" from this section as these terms are defined elsewhere in part 705 or in part 700 of NCUA's regulations.[2] The Board also proposes to remove the cross-reference to § 705.6 in the definition of the term "Notice of Funding Opportunity" as unnecessary.

§ 705.5. Terms and Conditions. The Board proposes to add the words "for loans" to the title of this section to clarify that it only applies to CDRLF loans, and not technical assistance grants. As discussed in more detail below, the Board also proposes to add a separate "terms and conditions" section for technical assistance grants. This will improve the usability of the rule.

Section 705.5(b) includes a maximum aggregate loan amount of $300,000 for CDRLF loans. The Board proposes to remove the dollar amount from this section, as it is unnecessary and inaccurate. NCUA may grant loans in any amount it sees fit. The dollar amount of individual CDRLF loans may continue to rise in connection with need and economic conditions. Rather than maintaining an outdated reference to a specific dollar amount in the rule, the Board proposes to amend the rule by providing that any CDRLF loan limits will be published in NCUA's Notice of Funding Opportunity.[3] This approach is more practical than having to update the rule each time the loan funding limit changes. The Board proposes to make a similar amendment with respect to technical assistance grants.

The Board proposes to amend § 705.5(h) by adding "security agreements" to the list of terms and conditions that the section provides will be addressed in the related Notice of Funding Opportunity or applicable loan documents. The Board notes that this is not a substantive change, but rather reflects NCUA's current practice of including other terms and conditions related to loans in a Notice of Funding Opportunity or loan documents, including security agreements.

Current § 705.10. Technical assistance grants. Current § 705.10 contains some provisions detailing the terms and conditions that apply to technical assistance grants. The Board, proposes to simplify and condense this provision and to include most of that information in the Notice of Funding Opportunity. The amended regulatory language will then be redesignated as proposed § 705.6. This proposed amendment is not a substantive change. Rather, it is a reorganization that reflects NCUA's preference to provide such pertinent information in a Notice of Funding Opportunity. The Board notes that these amendments preserve NCUA's flexibility to issue grants based on the needs of credit unions.

Current § 705.6. Application and award processes. In conformity with the above amendment regarding terms and conditions for technical assistance grants, the Board proposes to redesignate current § 705.6 as proposed § 705.7. Further, the Board proposes to amend the application and award processes provisions of current § 705.6 to more accurately reflect NCUA's actual practices as follows.

The Board proposes to remove any reference to NCUA publishing a Notice of Funding Opportunity on other government Web sites. NCUA is not legally required to do so and it currently does not do so. NCUA currently publishes a Notice of Funding Opportunity on its Web site and in the **Federal Register**. The Board also proposes to provide that NCUA uses press releases as one method of supplementing information in a Notice of Funding Opportunity. This amendment only clarifies current NCUA practice.

The current rule states that NCUA will only provide a CDRLF loan or technical assistance grant with the concurrence of the applicable regional director.[4] NCUA's practice, however, is to only require regional director concurrence for loans, not technical assistance grants. Accordingly, the Board proposes to remove from the rule the current requirement for regional director concurrence for technical assistance grants.

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[1] 76 FR 67583 (Nov. 2, 2011).

[2] 12 CFR part 700.

[3] *Notice of Funding Opportunity,* as more fully defined in § 705.6 of NCUA's regulations, means the notice NCUA publishes describing one or more loan or technical assistance grant programs or initiatives being supported by the CDRLF and inviting interested qualifying credit unions to submit applications to participate in the program or initiative.

[4] 12 CFR 705.6(c)(4).

With respect to CDRLF loan approval for federally insured, state-chartered credit unions (FISCUs), the Board proposes to make the concurrence process more efficient. Specifically, rather than requiring a FISCU to obtain concurrence from its state supervisory authority (SSA) before NCUA considers the FISCU's loan application, the Board proposes to clarify that, while SSA concurrence is still required, a FISCU is not required to obtain such concurrence before applying for a loan. Under this proposed rule, NCUA would obtain concurrence directly from the SSA rather than through the FISCU. However, the Board encourages a FISCU applying for a loan to notify its SSA of its application. This amendment will make the overall application process less burdensome for FISCUs.

The Board proposes to reorganize and consolidate the disbursement provisions for loans (current § 705.6(g)) and technical assistance grants (current § 705.10) to better organize the rule. The Board also proposes to reorganize the appeals provisions and consolidate them into proposed § 705.10 (appeals).

§ 705.9. Reporting and Monitoring. This section requires all participating credit unions to report to their members their progress in providing community support. Credit unions are also required to submit a copy of any such report to NCUA. The Board notes, however, that NCUA's current practice is only to monitor reports relating to CDRLF loans, not technical assistance grants. While the Board believes all credit unions should be as transparent as possible to members, the Board also wants to eliminate unnecessary burdens on participating credit unions. Therefore, the Board proposes to clarify that NCUA encourages rather than mandates credit union reporting to members with respect to technical assistance grants. This does not change the reporting requirement related to CDRLF loans. The Board notes that a credit union may satisfy the requirements of this section by using any method that results in all members receiving a copy of the written report, including emailing a copy of the report to members that have access to email.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities. NCUA considers credit unions having less than ten million dollars in assets to be small for purposes of RFA. The proposed revisions to part 705 are designed to update and streamline the rule, thereby reducing the burden for credit unions that are seeking financial awards, whether in the form of a technical assistance grant or a loan. NCUA has determined and certifies that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA has determined that an RFA analysis is not required.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden or increases an existing burden. For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. The proposed changes in this rulemaking are technical in nature and will not create new paperwork burdens or modify any existing paperwork burdens.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rulemaking will not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this proposal does not constitute a policy that has federalism implications for purposes of the executive order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

List of Subjects in 12 CFR Part 705

Community programs, Credit unions, Grants, Loans, Low income, Revolving fund.

By the National Credit Union Administration Board on June 16, 2016.

Gerard Poliquin,

Secretary of the Board.

For the reasons stated above, NCUA proposes to amend 12 CFR part 705 as follows:

PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN FUND FOR CREDIT UNIONS

■ 1. The authority citation for part 705 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757(5)(D), and (7)(I), 1766, 1782, 1784, 1785 and 1786.

■ 2. Revise § 705.1(c) through (e) to read as follows:

§ 705.1 Authority, purpose, and scope.

* * * * *

(c) NCUA's policy is to revolve the loan funds to credit unions as often as practical in order to achieve maximum economic impact on as many credit unions as possible.

(d) The financial awards provided to credit unions through the Fund will better enable them to support the communities in which they operate; provide basic financial services to low-income residents of these communities, and result in more opportunities for the residents of those communities to improve their financial circumstances.

(e) The Fund is intended to support the efforts of credit unions through loans and technical assistance grants needed for:

(1) Providing basic financial and related services to residents in their communities;

(2) Enhancing their capacity to better serve their members and the communities in which they operate; and

(3) Responding to emergencies.

■ 3. Revise § 705.2 to read as follows:

§ 705.2 Definitions.

For purposes of this part, the following terms shall have the meanings assigned to them in this section.

Application means a form supplied by the NCUA by which a Qualifying Credit Union may apply for a loan or a technical assistance grant from the Fund.

Loan is an award in the form of an extension of credit from the Fund to a Participating Credit Union that must be repaid, with interest.

Low-income Members are those members defined in § 701.34 of this chapter.

Notice of Funding Opportunity means the Notice NCUA publishes describing one or more loan or technical assistance grant programs or initiatives currently being supported by the Fund and inviting Qualifying Credit Unions to submit applications to participate in the program(s) or initiatives(s).

Participating Credit Union refers to a Qualifying Credit Union that has submitted an application for a loan or a technical assistance grant from the Fund which has been approved by NCUA. A Participating Credit Union shall not be deemed to be an agency, department, or instrumentality of the United States because of its receipt of a financial award from the Fund.

Program means the Community Development Revolving Loan Fund Program under which NCUA makes loans and technical assistance grants available to credit unions.

Qualifying Credit Union means a credit union that may be, or has agreed to be, examined by NCUA, with a current low-income designation pursuant to § 701.34(a)(1) or § 741.204 of this chapter or, in the case of a non-federally insured, state-chartered credit union, a low-income designation from a state regulator, made under appropriate state standards with the concurrence of NCUA. Services to low-income members must include, at a minimum, offering share accounts and loans.

Technical Assistance Grant means an award of money from the Fund to a Participating Credit Union that does not have to be repaid.

■ 4. Amend § 705.5 by:

■ a. Revising the section heading and paragraph (b); and

■ b. In paragraph (h) adding the words "security agreements (if any)," between the words "repayment obligations," and "and covenants".

The revisions read as follows:

§ 705.5 Terms and conditions for loans.

* * * * *

(b) *Funding limits.* NCUA will publish any applicable loan funding limits in the applicable Notice of Funding Opportunity.

* * * * *

§§ 705.6 and 705.7 [Redesignated as §§ 705.7 and 705.8]

■ 5. Redesignate §§ 705.6 and 705.7 as §§ 705.7 and 705.8, respectively.

■ 6. Add new § 705.6 to read as follows:

§ 705.6 Terms and conditions for technical assistance grants.

(a) Participating Credit Unions must comply with the terms and conditions for technical assistance grants specified for each funding opportunity offered under a Notice of Funding Opportunity.

(b) NCUA will establish applicable funding limits for technical assistance grants in the Notice of Funding Opportunity.

■ 7. Amend newly redesignated § 705.7 by revising paragraphs (a), (c)(4), (f), and (g) to read as follows:

§ 705.7 Application and award processes.

(a) *Notice of Funding Opportunity.* NCUA will publish a Notice of Funding Opportunity in the **Federal Register** and on its Web site. The Notice of Funding Opportunity will describe the loan and technical assistance grant programs for the period in which funds are available. It also will announce special initiatives, the amount of funds available, funding priorities, permissible uses of funds, funding limits, deadlines, and other pertinent details. The Notice of Funding Opportunity will also advise potential applicants on how to obtain an Application and related materials. NCUA may supplement the information contained in the Notice of Funding Opportunity through such other media as it determines appropriate, including Letters to Credit Unions, press releases, direct notices to Qualifying Credit Unions, and announcements on its Web site.

* * * * *

(c) * * *

(4) *Examination information and applicable concurrence.* In evaluating a Qualifying Credit Union, NCUA will consider all information provided by NCUA staff or state supervisory authority staff that performed the Qualifying Credit Union's most recent examination. In addition:

(i) NCUA will only provide a loan to a qualifying federal credit union with the concurrence of that credit union's supervising Regional Director; and

(ii) NCUA will only provide a loan to a qualifying state-charted credit union with the written concurrence of the applicable Regional Director and the credit union's state supervisory authority. A qualifying state-chartered credit union should notify its state supervisory authority that it is applying for a loan from the Fund before submitting its application to NCUA. However, a qualifying state-chartered credit union is not required to obtain concurrence before applying for a loan. NCUA will obtain the concurrence directly from the state supervisory authority rather than through the qualifying state-chartered credit union. Additionally, before NCUA will provide a loan to a qualifying state-charted credit union the credit union must make copies of its state examination reports available to NCUA and agree to examination by NCUA.

* * * * *

(f) *Notice of award.* NCUA will determine whether an application meets NCUA's standards established by this part and the related Notice of Funding Opportunity. NCUA will provide written notice to a Qualifying Credit Union as to whether or not it has qualified for a loan or technical assistance grant under this part. A Qualifying Credit Union whose application has been denied for failure of a qualification may appeal that decision in accordance with § 705.10.

(g) *Disbursement*—(1) *Loans.* Before NCUA will disburse a loan, the Participating Credit Union must sign the loan agreement, promissory note, and any other loan related documents. NCUA may, in its discretion, choose not to disburse the entire amount of the loan at once.

(2) *Technical assistance grants.* NCUA will disburse technical assistance grants in such amounts, and in accordance with such terms and conditions, as NCUA may establish. In general, technical assistance grants are provided on a reimbursement basis, to cover expenditures approved in advance by NCUA and supported by receipts evidencing payment by the Participating Credit Union.

■ 8. Revise § 705.9(b) to read as follows:

§ 705.9 Reporting and monitoring.

* * * * *

(b) *Reporting*—(1) *Reporting to NCUA.* A Participating Credit Union must complete and submit to NCUA all required reports, at such times and in such formats as NCUA will direct. Such reports must describe how the Participating Credit Union has used the loan or technical assistance grant proceeds and the results it has obtained, in relation to the programs, policies, or initiatives identified by the Participating Credit Union in its application. NCUA may request additional information as it determines appropriate.

(2) *Reporting to members.*—(i) *Loans.* A Participating Credit Union that receives a loan under this part must report on the progress of providing needed community services to the Participating Credit Union's members once a year, either at the annual meeting or in a written report sent to all members. The Participating Credit Union must also submit to NCUA the written report or a summary of the report provided to members.

(ii) *Technical assistance grants.* A Participating Credit Union that receives a technical assistance grant under this part should report on the progress of providing needed community services to the Participating Credit Union's members once a year, either at the annual meeting or in a written report sent to all members.

* * * * *

■ 9. Revise § 705.10 to read as follows:

§ 705.10 Appeals.

(a) *Appeals of non-qualification.* A Qualifying Credit Union whose application for a loan or technical assistance grant has been denied, under § 705.7(f), for failure of a qualification may appeal that decision to the NCUA Board in accordance with the following:

(1) Within thirty days of its receipt of a notice of non-qualification, a credit union may appeal the decision to the NCUA Board. The scope of the NCUA Board's review is limited to the threshold question of qualification and not the issue of whether, among qualified applicants, a particular loan or technical assistance grant is funded.

(2) The foregoing procedure shall apply only with respect to Applications received by NCUA during an open period in which funds are available and NCUA has called for Applications. Any Application submitted by an applicant during a period in which NCUA has not called for Applications will be rejected, except for those Applications submitted under § 705.8. Any such rejection shall not be subject to appeal or review by the NCUA Board.

(b) *Appeals of technical assistance grant reimbursement denials.* Pursuant to NCUA Interpretative Ruling and Policy Statement 11–1, any Participating Credit Union may appeal a denial of a technical assistance grant reimbursement to NCUA's Supervisory Review Committee. All appeals of technical assistance grant reimbursements must be submitted to the Supervisory Review Committee within 30 days from the date of the denial. The decisions of the Supervisory Review Committee are final and may not be appealed to the NCUA Board.

[FR Doc. 2016–14718 Filed 6–20–16; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–7264; Directorate Identifier 2015–NM–185–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A330–200, –200 Freighter, and –300 series airplanes; and Model A340–500 and –600 series airplanes. This proposed AD was prompted by a quality control review on the final assembly line, which determined that the wrong aluminum alloy was used to manufacture several structural parts. This proposed AD would require a one-time eddy current conductivity measurement of certain cabin and cargo compartment structural parts to determine if an incorrect aluminum alloy was used, and replacement of any affected part with a serviceable part. We are proposing this AD to detect and replace structural parts made of incorrect aluminum alloy. This condition could result in reduced structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by August 5, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330–A340@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7264; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–7264; Directorate Identifier 2015–NM–185–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2015–0206, dated October 12, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for certain Airbus Model A330–200, –200 Freighter, and –300 series airplanes; and Model A340–500 and –600 series airplanes. The MCAI states:

> Following an Airbus quality control review on the final assembly line, it was discovered that wrong aluminum alloy was used to manufacture several structural parts.
>
> This condition, if not detected and corrected, could reduce the structural integrity of the aeroplane.
>
> To address this potential unsafe condition, Airbus issued Service Bulletin (SB) A330–53–3261, SB A330–53–3262, and SB A340–53–5072, as applicable to aeroplane type, to provide instructions to identify the affected parts.

For the reasons described above, this [EASA] AD requires a one-time Special Detailed Inspection (SDI) [eddy current conductivity measurements] of certain cabin and/or cargo compartment parts for material identification and, depending on findings, replacement with serviceable parts.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7264.

Related Service Information Under 1 CFR Part 51

We reviewed the following service information:

- Airbus Service Bulletin A330–53–3261, including Appendixes 01, 02, and 03, dated June 23, 2015.
- Airbus Service Bulletin A330–53–3262, including Appendixes 01 and 02, dated June 23, 2015.
- Airbus Service Bulletin A340–53–5072, including Appendixes 01 and 02, dated June 23, 2015.

The service information describes procedures for a one-time eddy current conductivity measurement of certain cabin and cargo compartment structural parts to determine if an incorrect aluminum alloy was used, and replacement of any affected part with a serviceable part. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Costs of Compliance

We estimate that this proposed AD affects 37 airplanes of U.S. registry.

We also estimate that it would take about 11 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $34,595, or $935 per product.

In addition, we estimate that any on-condition repairs would take about 45 work-hours and would require parts costing $0, for a cost of $3,825 per product. We have no way of determining the number of aircraft that might need these repairs.

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all available costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2016–7264; Directorate Identifier 2015–NM–185–AD.

(a) Comments Due Date

We must receive comments by August 5, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes, having manufacturer serial numbers identified in Airbus Service Bulletin A330–53–3261, dated June 23, 2015; and/or Airbus Service Bulletin A330–53–3262, dated June 23, 2015.

(2) Airbus Model A340–541 and –642 airplanes, manufacturer serial numbers 1030, 1040, 1079, 1091, 1102, and 1122.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by a quality control review on the final assembly line, which determined that the wrong aluminum alloy was used to manufacture several structural parts. We are issuing this AD to detect and replace structural parts made of incorrect aluminum alloy. This condition could result in reduced structural integrity of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) One-time Measurement

Within 6 years after the effective date of this AD, but not exceeding 12 years since the date of issuance of the original certificate of airworthiness or the date of issuance of the original export certificate of airworthiness: Do a one-time eddy current conductivity measurement of the cabin and cargo compartment structural parts identified in the "Affected Part Number" column of table 1 to paragraphs (g) and (h) of this AD to determine if an incorrect aluminum alloy was used, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD.

(1) For cargo compartment structural parts for Model A330 airplanes: Airbus Service Bulletin A330–53–3261, including Appendixes 01, 02, and 03, dated June 23, 2015.

(2) For cabin structural parts for Model A330 airplanes: Airbus Service Bulletin A330–53–3262, including Appendixes 01 and 02, dated June 23, 2015.

(3) For cargo compartment structural parts for Model A340 airplanes: Airbus Service Bulletin A340–53–5072, including Appendixes 01 and 02, dated June 23, 2015.

TABLE 1 TO PARAGRAPHS (g) AND (h) OF THIS AD—PARTS TO BE INSPECTED/INSTALLED

Affected part No.	Acceptable replacement part No.	Area
F5347126620600	F5347126620000	Cabin
F5347126621000	F5347126620400	Cabin
F5347170420400	F5347170420400	Cargo
F5347170420600	F5347170420600	Cargo
F5377004320300	F5377004320051	Cargo
F5397096620200	F5397096620200	Cargo
G5367131300000	G5367131300000	Cargo
G5367173700000	G5367173700000	Cargo
G5367173800000	G5367173800000	Cargo

(h) Replacement

If during the inspection required by paragraph (g) of this AD, any affected part having a part number specified in table 1 to paragraphs (g) and (h) of this AD is found to have a measured value greater than that specified in Figure A–GFAAA, Sheet 02, "Inspection Flowchart," of the applicable service information identified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD: Before further flight, replace with an acceptable replacement part having a part number specified in table 1 to paragraphs (g) and (h) of this AD, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0206, dated October 12, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7264.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on June 9, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–14430 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–7415; Directorate Identifier 2015–SW–076–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Airbus Helicopters Deutschland GmbH (Airbus Helicopters) Model MBB–BK 117 C–2 and MBB–BK 117 D–2 helicopters. This proposed AD would require repetitive visual inspections and a one-time torque of each hydraulic module plate assembly attachment point (attachment point). This proposed AD is prompted by a design reassessment showing the current attachment point design is insufficient in preventing an attachment point failure. The proposed actions are intended to prevent failure of an attachment point, loss of the hydraulic module plate, and subsequent loss of control of the helicopter.

DATES: We must receive comments on this proposed AD by August 22, 2016.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the "Mail" address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7415; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this proposed rule, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2015–0210R1, Revision 1, dated October 28, 2015, to correct an unsafe condition for Airbus Helicopters Model MBB–BK117 C–2, MBB–BK117 C–2e, MBB–BK117 D–2, and MBB–BK117 D–2m helicopters. EASA advises that the hydraulic plate assembly on certain MBB–BK117 models has four attachment points on the fuselage secured by a single locking mechanism. According to EASA, a design reassessment revealed stiffness of the hydraulic plate may be insufficient in the event one of the four single locking attachment points fails. EASA states that if this condition is not detected and corrected, it may lead to loss of the hydraulic module plate and possible loss of control of the helicopter. Therefore, the EASA AD requires a repetitive inspection and one-time torque tightening of the attachment points in accordance with Airbus Helicopters' service information. EASA considers its AD an interim action and states further AD action may follow.

FAA's Determination

These helicopters have been approved by the aviation authority of Germany and are approved for operation in the United States. Pursuant to our bilateral agreement with Germany, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Helicopters Alert Service Bulletin (ASB) No. ASB MBB–BK117 C–2–29A–003 and Airbus Helicopters ASB No. ASB MBB–BK117 D–2–29A–001, both Revision 0, and both dated October 12, 2015. This service information specifies a repetitive visual inspection for condition and correct installation of the attachment points, and if there is a crack, replacing the affected parts and contacting Airbus Helicopters customer support. This service information also specifies a tightening torque check after the initial inspection and, if torque cannot be applied, replacing the affected parts and contacting Airbus Helicopters customer support.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Proposed AD Requirements

This proposed AD would require, within 100 hours time-in-service (TIS) and thereafter at intervals not to exceed 400 hours TIS, performing a visual inspection of each attachment point of the hydraulic module plate assembly for a crack and proper installation. This proposed AD would also require, within 100 hours TIS, applying torque to the nuts of each attachment point.

Differences Between This Proposed AD and the EASA AD

The EASA AD requires contacting Airbus Helicopters customer support when replacing affected parts, and this proposed AD would not.

Interim Action

We consider this proposed AD to be an interim action. Airbus Helicopters is currently developing a modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, we might consider additional rulemaking.

Costs of Compliance

We estimate that this proposed AD would affect 134 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. We estimate the cost of labor at $85 per work-hour.

Visually inspecting the four attachment points would take about 0.75 work-hour for an estimated cost of $64 per helicopter and $8,576 for the U.S. fleet per inspection cycle. Inspecting the torque of the four attachment points would take about 0.25 work-hour an estimated cost of $21 per helicopter and $2,814 for the U.S. fleet. Replacing any of the attachment point parts would take a minimal amount of time and parts would cost about $48 per attachment point.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus Helicopters Deutschland GmbH: Docket No. FAA–2016–7415; Directorate Identifier 2015–SW–076–AD.

(a) Applicability

This AD applies to Model MBB–BK 117 C–2 and MBB–BK 117 D–2 helicopters with a hydraulic module plate assembly part number B291M0003103 with a single locking attachment point installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as failure of a hydraulic module plate assembly attachment point (attachment point). This condition could result in loss of the hydraulic module plate and subsequent loss of control of the helicopter.

(c) Comments Due Date

We must receive comments by August 22, 2016.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Within 100 hours time-in-service (TIS):

(i) Visually inspect the split pins, castellated nuts, plugs, nuts, and hexagon bolts of each attachment point for a crack and for proper installation by following the Accomplishment Instructions, paragraphs 3.B.1.2.a. through 3.B.1.2.e., of Airbus Helicopters Alert Service Bulletin (ASB) No. ASB MBB–BK117 C–2–29A–003, Revision 0, dated October 12, 2015 (ASB MBB–BK117 C–2–29A–003), or Airbus Helicopters ASB No. ASB MBB–BK117 D–2–29A–001, Revision 0, dated October 12, 2015 (ASB MBB–BK117 D–2–29A–001), as applicable to your model helicopter. Replace any part that has a crack before further flight. If the split pins, castellated nuts, or hexagon bolts are not as depicted in Figure 2 of ASB MBB–BK117 C–2–29A–003 or ASB MBB–BK117 D–2–29A–001, before further flight, properly install them.

(ii) Apply a torque of 9 to 10 Nm to the left-hand and right-hand nuts of each attachment point. If a torque of 9 to 10 Nm cannot be applied, replace the affected nut before further flight.

(2) Thereafter, at intervals not to exceed 400 hours TIS, perform the inspection in paragraph (e)(1)(i) of this AD.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, Senior Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2015–0210R1, Revision 1, dated October 28, 2015. You may view the EASA AD on the Internet at *http://www.regulations.gov* in the AD Docket.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 2900, Hydraulic Power System.

Issued in Fort Worth, Texas, on June 9, 2016.

Scott A. Horn,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2016–14470 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–7261; Directorate Identifier 2016–NM–004–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 747–200B, 747–300, 747–400, 747–400D, and 747–400F series airplanes. This proposed AD was prompted by a report of cracking in both the aluminum strut side skin, and corrosion resistant steel (CRES) outer spring beam support fitting. This proposed AD would require repetitive high frequency eddy current (HFEC) inspections for cracking in the strut side skin; an open-hole HFEC inspection for cracking, applicable related investigative and corrective actions; and a fastener installation modification. We are proposing this AD to detect and correct cracking of the strut side skin; such cracking could result in the failure of the outer spring beam support fitting, which could cause separation of a strut and engine from the airplane during flight.

DATES: We must receive comments on this proposed AD by August 5, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7261.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7261; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *nathan.p.weigand@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–7261; Directorate Identifier 2016–NM–004–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We have received a report indicating cracking in both the aluminum strut side skin, and CRES outer spring beam support fitting. This condition, if not corrected, could result in the failure of the outer spring beam support fitting, which could cause separation of a strut and engine from the airplane during flight.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 747–54A2245, dated December 18, 2015. The service information describes procedures for repetitive high HFEC inspections for cracking in the strut side skin, an open-hole HFEC inspection for cracking, applicable related investigative and corrective actions, and a fastener installation modification. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between this Proposed AD and the Service Information." For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7261.

The phrase "related investigative actions" is used in this proposed AD. "Related investigative actions" are follow-on actions that (1) are related to the primary action, and (2) further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

The phrase "corrective actions" is used in this proposed AD. "Corrective actions" correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Differences Between This Proposed AD and the Service Information

Boeing Alert Service Bulletin 747–54A2245, dated December 18, 2015, specifies to contact the manufacturer for certain instructions, but this proposed AD would require accomplishment of repair methods, modification deviations, and alteration deviations in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 320 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	291 work-hours × $85 per hour = $24,735 per inspection cycle.	$0	$24,735 per inspection cycle.	$7,915,200 per inspection cycle.
Modification	Up to 490 work-hours × $85 per hour = $41,650	56,414	Up to $98,064	Up to $31,380,480.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2016–7261; Directorate Identifier 2016–NM–004–AD.

(a) Comments Due Date

We must receive comments by August 5, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 747–200B, 747–300, 747–400, 747–400D, and 747–400F series airplanes, certificated in any category, equipped with General Electric (GE) CF6–80 series engines or Pratt & Whitney PW4000 series engines; as identified in Boeing Alert Service Bulletin 747–54A2245, dated December 18, 2015.

(d) Subject

Air Transport Association (ATA) of America Code 54; Nacelles/pylons.

(e) Unsafe Condition

This AD was prompted by a report of cracking in both the aluminum strut side skin, and corrosion resistant steel (CRES) outer spring beam support fitting. We are issuing this AD to detect and correct cracking of the strut side skin; such cracking could result in the failure of the outer spring beam support fitting, which could cause separation of a strut and engine from the airplane during flight.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Repetitive Inspections

Except as provided by paragraph (i)(1) and (i)(2) of this AD, at the applicable compliance time specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–54A2245, dated December 18, 2015, do a surface high frequency eddy current (HFEC) inspection for cracking of the strut side skin, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2245, dated December 18, 2015, except as required by paragraph (i)(3) of this AD. Repeat the inspection thereafter at the applicable times specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–54A2245, dated December 18, 2015, until the actions required by paragraph (h) of this AD are done. If any cracking is found, do the actions specified in paragraph (h) of this AD.

(h) Terminating Actions

Within the applicable compliance time specified in paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–54A2245, dated December 18, 2015, except as provided by paragraphs (i)(1) and (i)(2) of this AD: Do a fastener hole open-hole HFEC inspection for cracking, applicable related investigative and corrective actions, and a fastener installation modification, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2245, dated December 18, 2015, except as required by paragraph (i)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Doing the actions required by this paragraph terminates the repetitive inspections required by paragraph (g) of this AD.

(i) Exceptions to Service Information

(1) Where Boeing Alert Service Bulletin 747–54A2245, dated December 18, 2015, specifies a compliance time "after the original issue date of this service bulletin," this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) The Condition column in table 1 and table 2 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 747–54A2245, dated December 18, 2015, refers to total flight cycles "at the original issue date of this service bulletin." This AD, however, applies to the airplanes with the specified total flight cycles as of the effective date of this AD.

(3) Although Boeing Alert Service Bulletin 747–54A2245, dated December 18, 2015, specifies to contact Boeing for repair instructions, and specifies that action as "RC" (Required for Compliance), this AD requires repair before further flight using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) Except as required by paragraph (i)(3) of this AD, for service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (j)(4)(i) and (j)(4)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(k) Related Information

(1) For more information about this AD, contact Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *nathan.p.weigand@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on June 3, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–14293 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6901; Directorate Identifier 2015–NM–192–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes. This proposed AD was prompted by an evaluation by the design approval holder (DAH) indicating that the aft pressure bulkhead is subject to widespread fatigue damage (WFD). This proposed AD would require repetitive inspections of the aft pressure bulkhead web for any cracking, crack indications, discrepant fastener holes, and corrosion; and corrective actions if necessary. We are proposing this AD to detect and correct cracks in the aft pressure bulkhead web, which could result in an uncontrolled decompression of the fuselage.

DATES: We must receive comments on this proposed AD by August 5, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6901.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6901; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6450; fax: 425–917–6590; email: *Alan.Pohl@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–6901; Directorate Identifier 2015–NM–192–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Fatigue damage can occur locally, in small areas or structural design details, or globally, in widespread areas. Multiple-site damage is widespread damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Widespread damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site damage and multiple-element damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane. This condition is known as widespread fatigue damage. It is associated with general degradation of large areas of structure with similar structural details and stress levels. As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the

LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions. In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

Analysis by the DAH has determined that the aft pressure bulkhead web at the Y chord is susceptible to WFD for certain Model 737–600, –700, –700C, –800, and –900 series airplanes. This analysis indicates that the repetitive inspection intervals mandated by AD 2005–21–06, Amendment 39–14344 (70 FR 61226, October 21, 2005), should be reduced at the WFD threshold to detect cracking due to WFD. This cracking, if left undetected, could result in an uncontrolled decompression of the fuselage.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015. The service information describes procedures for low frequency eddy current, or high frequency eddy current, and detailed inspections of the bulkhead web for cracking, crack indications, discrepant fastener holes, and corrosion. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between this Proposed AD and the Service Information."

The phrase "corrective actions" is used in this NPRM. Corrective actions correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Differences Between This Proposed AD and the Service Information

Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 680 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Cost per product	Cost on U.S. operators
Inspections	34 work-hours × $85 per hour = $2,890 per inspection cycle	$2,890 per inspection cycle ...	$1,965,200 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

The Boeing Company: Docket No. FAA–2016–6901; Directorate Identifier 2015–NM–192–AD.

(a) Comments Due Date

We must receive comments by August 5, 2016.

(b) Affected ADs

Certain requirements of this AD terminate certain requirements of AD 2005–21–06, Amendment 39–14344 (70 FR 61226, October 21, 2005) (“AD 2005–21–06”).

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category, line number 1 through 1755, as identified in Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the aft pressure bulkhead is subject to widespread fatigue damage (WFD). We are issuing this AD to detect and correct cracks in the aft pressure bulkhead web, which could result in an uncontrolled decompression of the fuselage.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Repetitive Inspections

At the applicable time specified in paragraph 1.E., “Compliance,” of Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015, or within 18 months after November 25, 2005 (the effective date of AD 2005–21–06), whichever occurs later: Do a low frequency eddy current (LFEC) or high frequency eddy current (HFEC) inspection, and a detailed inspection, of the aft and forward sides, as applicable, of the aft pressure bulkhead web at the Y chord, above and below stringer S–15L and stringer S–15R, to detect discrepancies (including cracking, crack indications, discrepant fastener holes, and corrosion), in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015. Access and restoration procedures specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015, are not required by this AD. Operators may do those procedures following their maintenance practices.

(1) If no discrepancy is found: Repeat the inspections thereafter at the applicable times specified in paragraph 1.E., “Compliance,” of Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015.

(2) If any discrepancy is found: Do the actions specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD.

(i) Repair the discrepancy before further flight using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(ii) On areas that are not repaired, repeat the inspections thereafter at the applicable times specified in paragraph 1.E., “Compliance,” of Boeing Alert Service Bulletin 737–53A1248, Revision 2, dated October 14, 2015.

(h) Terminating Action for AD 2005–21–06

Accomplishment of the initial inspections required by paragraph (g) of this AD terminates the requirements of AD 2005–21–06.

(i) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 737–53A1248, dated September 9, 2004; or Boeing Alert Service Bulletin 737–53A1248, Revision 1, dated September 10, 2007; which are not incorporated by reference in this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (k)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

(1) For more information about this AD, contact Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6450; fax: 425–917–6590; email: *Alan.Pohl@faa.gov*.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on June 3, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–14295 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–7262; Directorate Identifier 2015–NM–079–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 98–13–14, for certain Airbus Model A320–211, –212, and –231 airplanes. AD 98–13–14 currently requires repetitive rotating probe inspections of fastener holes and/or the adjacent tooling hole of a former junction of the aft fuselage, as applicable, and corrective action, if necessary. AD 98–13–14 also provides for an optional terminating action for the repetitive inspections. Since we issued AD 98–13–14, an evaluation by the design approval holder (DAH) indicates that the former junction of the aft fuselage is subject to fatigue damage. This proposed AD would continue to require the actions in AD 98–13–14, with revised inspection compliance times. We are proposing this AD to detect and correct fatigue cracks in the former junction of the aft fuselage; fatigue cracking could propagate and could adversely affect the structural integrity of the airplane.

DATES: We must receive comments on this proposed AD by August 5, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–

30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425 227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7262; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–7262; Directorate Identifier 2015–NM–079–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On June 11, 1998, we issued AD 98–13–14, Amendment 39–10602 (63 FR 34556, June 25, 1998) ("AD 98–13–14"). AD 98–13–14 requires actions intended to address an unsafe condition on certain Airbus Model A320 series airplanes. AD 98–13–14 was prompted by a report that four cracks were identified in the fastener holes of the former junction at frame (FR) 68 between stringers 4 and 5, which occurred during a full scale fatigue test. AD 98–13–14 requires repetitive rotating probe inspections of fastener holes and/or the adjacent tooling hole of a former junction of the aft fuselage, and corrective action, if necessary. AD 98–13–14 also provides for an optional terminating action for the repetitive inspections. We issued AD 98–13–14 to prevent reduced structural integrity of the aft fuselage caused by fatigue cracking of the former junction at FR 68.

Since we issued AD 98–13–14, an evaluation by the DAH indicates that the former junction of the aft fuselage is subject to fatigue damage.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2015–0084, dated May 13, 2015; corrected May 18, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for certain Airbus Model A320–211, –212, and –231 airplanes. The MCAI states:

> During a fatigue test campaign, four cracks were identified in the fastener holes of the former junction at frame (FR) 68 between stringers 4 and 5.
>
> This condition, if not detected and corrected, could lead to crack propagation, possibly resulting in reduced structural integrity of the fuselage.
>
> To address this unsafe condition, DGAC [Direction générale de l'aviation civile] France issued * * * [an AD, which corresponds to FAA AD 98–13–14, Amendment 39–10602 (63 FR 34556, June 25, 1998)] to require repetitive inspections and, depending on findings, the accomplishment of an applicable repair solution.
>
> That [DGAC] AD also provided modification of FR 68 [cold working of fastener and tooling holes] in accordance with Airbus Service Bulletin (SB) A320–53–1090 as optional terminating action.
>
> Following new analyses, the thresholds and inspection intervals have been reviewed and adjusted.
>
> For the reason described above, this [EASA] AD retains the requirements of DGAC France AD 96–298–093(B)R2 [*http://ad.easa.europa.eu/ad/F-1996-298R2*], which is superseded, and requires those actions within the new thresholds and intervals.
>
> This [EASA] AD was republished to correct a typographical error in the Reason.

Repairs include doing applicable related investigative actions (*i.e.,* rotating probe inspection of the hole to make sure the crack is removed and eddy current inspection of the cold expanded holes). You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7262.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information:

- Service Bulletin A320–53–1089, Revision 03, dated March 18, 2015. This service information describes procedures for a rotating probe inspection for fatigue cracking of the frame junction holes and the adjacent tooling hole, as applicable, of the right- and left-hand former junctions at FR 68, and repair, including doing applicable related investigative actions.
- Service Bulletin A320–53–1090, Revision 02, dated December 22, 1998. This service information describes procedures for modifying the airplane (cold working of fastener and tooling holes).

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 10 airplanes of U.S. registry.

The actions required by AD 98–13–14 and retained in this proposed AD take about 8 work-hours per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 98–13–14 is $680 per product, per inspection cycle.

We also estimate that it would take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $3,400, or $340 per product.

In addition, we estimate that any necessary follow-on repairs would take about 52 work-hours and require parts costing $3,800, for a cost of $8,220 per product. We have no way of determining the number of aircraft that might need these actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. "Subtitle VII: Aviation Programs," describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in "Subtitle VII, Part A, Subpart III, Section 44701: General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a "significant regulatory action" under Executive Order 12866;
2. Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 98–13–14, Amendment 39–10602 (63 FR 34556, June 25, 1998), and adding the following new AD:

Airbus: Docket No. FAA–2016–7262; Directorate Identifier 2015–NM–079–AD.

(a) Comments Due Date

We must receive comments by August 5, 2016.

(b) Affected ADs

This AD replaces AD 98–13–14, Amendment 39–10602 (63 FR 34556, June 25, 1998) ("AD 98–13–14").

(c) Applicability

This AD applies to Airbus Model A320–211, –212, and –231 airplanes, certificated in any category, manufacturer serial numbers (S/Ns) 0001 through 0123 inclusive, except those that have embodied Airbus Modifications 21780 and 21781 in production.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by identification of four cracks in the fastener holes of the former junction at frame (FR) 68 between stringers 4 and 5, which occurred during a fatigue test campaign, and a determination that certain compliance times specified in AD 98–13–14 must be reduced. We are issuing this AD to prevent fatigue cracks from occurring or propagating in certain structure which could adversely affect the structural integrity of the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Repetitive Inspections and Repair With Revised Compliance Language, and Additional Methods of Approving Repairs

This paragraph restates the requirements of paragraph (a) of AD 98–13–14, with revised compliance language; and adds additional methods of approving repairs. For Model A320 series airplanes, as listed in Airbus Service Bulletins A320–53–1089 and A320–53–1090, both dated November 22, 1995: Prior to the accumulation of 20,000 total flight cycles, or within 500 flight cycles after July 30, 1998 (the effective date of AD 98–13–14), whichever occurs later, perform a rotating probe inspection for fatigue cracking of the fastener holes and/or the adjacent tooling hole, as applicable, of the right- and left-hand former junctions at FR 68, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1089, dated November 22, 1995. Accomplishing an inspection required by paragraph (h) of this AD terminates the actions required by this paragraph.

(1) If no crack is detected, accomplish either paragraph (g)(1)(i) or (g)(1)(ii) of this AD.

(i) Repeat the inspection thereafter at intervals not to exceed 20,000 flight cycles; or

(ii) Prior to further flight following the accomplishment of the inspection required by paragraph (g) of this AD, cold work the fastener holes and/or the adjacent tooling hole of the right- and left-hand former junctions at FR 68, as applicable, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1090, dated November 22, 1995. Accomplishment of this cold working constitutes terminating action for the repetitive inspections required by paragraph (g)(1)(i) of this AD.

(2) If any crack is detected, prior to further flight, repair it in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

(h) New Repetitive Inspection Requirement

Within the compliance time specified in paragraph (h)(1), (h)(2), or (h)(3) of this AD, whichever occurs latest: Accomplish a rotating probe inspection for fatigue cracking of the frame junction holes and the adjacent tooling hole, as applicable, of the right- and left-hand former junctions at FR 68, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1089, Revision 03, dated March 18, 2015. Repeat the inspection thereafter at intervals not to exceed 3,800 flight cycles or 7,600 flight hours, whichever occurs first, until a repair required by paragraph (i) of this AD is done or a modification specified in paragraph (j) of this AD is done. Accomplishing an inspection required by this paragraph terminates the inspections required by paragraph (g) of this AD.

(1) Within 28,700 flight cycles or 57,400 flight hours since airplane first flight, whichever occurs first; or

(2) Within 3,800 flight cycles or 7,600 flight hours, whichever occurs first, since the most recent inspection done in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1089, Revision 03, dated March 18, 2015; or

(3) Within 3,800 flight cycles or 7,600 flight hours after the effective date of this AD, whichever occurs first, without exceeding 20,000 flight cycles since the most recent inspection done in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1089, Revision 03, dated March 18, 2015.

(i) New Repair Requirement

If any crack is detected during any inspection required by paragraph (h) of this AD: Before further flight, repair, including doing all applicable related investigative actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1089, Revision 03, dated March 18, 2015. Do all applicable related investigative actions before further flight. Repair of an airplane in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1089, Revision 03, dated March 18, 2015, constitutes terminating action for the repetitive inspections required by paragraph (h) of this AD.

(j) New Optional Modification

Modification of an airplane, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1090, Revision 02, dated December 22, 1998, constitutes terminating action for the repetitive inspections required by paragraph (h) of this AD, provided the modification is accomplished before further flight after accomplishing an inspection required by paragraph (h) of this AD and no cracks were detected.

(k) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraphs (h) and (i) of this AD, if those actions were performed before the effective date of this AD using the service information identified in paragraphs (k)(1)(i) and (k)(1)(ii) of this AD, which are not incorporated by reference in this AD.

(i) Airbus Service Bulletin A320–53–1089, Revision 01, dated June 4, 1998;

(ii) Airbus Service Bulletin A320–53–1089, Revision 02, dated February 3, 2003.

(2) This paragraph provides credit for the actions required by paragraph (j) of this AD, if those actions were performed before the effective date of this AD in accordance with the service information identified in paragraphs (k)(2)(i) and (k)(2)(ii) of this AD.

(i) Airbus Service Bulletin A320–53–1090, dated November 22, 1995, which was incorporated by reference in AD 98–13–14, Amendment 39–10602 (63 FR 34556, June 25, 1998).

(ii) Airbus Service Bulletin A320–53–1090, Revision 1, dated November 22, 1995, dated June 10, 1998, which is not incorporated by reference in this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2015–0084, dated May 13, 2015; corrected May 18, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7262.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office– EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on June 3, 2016.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2016–14301 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0726; Airspace Docket No. 14–ASO–9]

Proposed Amendment of Class D and E Airspace, and Revocation of Class E Airspace; Troy, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D and E airspace, and remove Class E airspace designated as an extension at Troy Municipal Airport at N. Kenneth Campbell Field (formerly Troy Municipal Airport), Troy, AL. The Troy VHF Omnidirectional Radio Range (VOR) has been decommissioned, therefore Class E extension airspace is no longer needed, and new Standard Instrument Approach Procedures have been developed for Class D airspace and Class E airspace extending upward from 700 feet above the surface at the airport. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport. This action also would update the geographic coordinates of the airport and recognize the name change of the airport.

DATES: Comments must be received on or before August 5, 2016.

ADDRESSES: Send comments on this proposal to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Bldg Ground Floor Rm W12–140, Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2014–0726; Airspace Docket No. 14–ASO–9, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace at Troy Municipal Airport at N. Kenneth Campbell Field, Troy, AL.

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2014–0726; Airspace Docket No. 14–ASO–9) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2014–0726; Airspace Docket No. 14–ASO–9." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, Georgia 30337. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet above the surface, at Troy Municipal Airport at N. Kenneth Campbell Field, formerly Troy Municipal Airport, Troy, AL, as new Standard Instrument Approach Procedures have been developed requiring airspace redesign. Additionally, Class E airspace designated as an extension to Class D surface area would be removed due to the decommissioning of the Troy VOR and cancellation of the VOR approaches. For the Class D and E airspace areas above the geographic coordinates of the airport would be amended to coincide with the FAAs aeronautical database. This action is necessary for continued safety and management of IFR operations at the airport.

Class D and E airspace designations are published in Paragraphs 5000, 6004 and 6005, respectively, of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, paragraph 5.6.5a, "Environmental Impacts:

Policies and Procedures" prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f),106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, effective September 15, 2015, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

ASO AL D Troy, AL [Amended]

Troy Municipal Airport at N. Kenneth Campbell Field, AL

(Lat. 31°51′36″ N., long. 86°00′50″ W.)

That airspace extending upward from the surface to and including 2,900 feet MSL within a 5-mile radius of Troy Municipal Airport at N. Kenneth Campbell Field. This Class D airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

ASO AL E4 Troy, AL [Removed]

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO AL E5 Troy, AL [Amended]

Troy Municipal Airport at N. Kenneth Campbell Field, AL

(Lat. 31°51′36″ N., long. 86°00′50″ W.)

That airspace extending upward from 700 feet above the surface within a 7.6-mile radius of Troy Municipal Airport at N. Kenneth Campbell Field and within 2-miles each side of a 070° bearing from the airport to 11.5-miles northeast of the airport, and within 2-miles each side of a 253° bearing from the airport to 11.3-miles southwest of the airport.

Issued in College Park, Georgia, on June 9, 2016.

Ryan W. Almasy,

Manager, Operation Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2016–14374 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–5444; Airspace Docket No. 16–ANE–1]

Proposed Amendment of Class D and E Airspace, Falmouth, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace designated as an extension at Cape Cod Coast Guard Air Station, (formerly Otis ANGB), Falmouth, MA, as the Otis TACAN has been decommissioned, requiring airspace reconfiguration. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at the airport. This action also would update the geographic coordinates of the airport in the existing Class D and E airspace areas, as well as Falmouth Airpark, Barnstable Municipal Airport-Boardman/Polando Field, Chatham Municipal Airport, Martha's Vineyard Airport, (formerly Martha's Vineyard Municipal Airport), and the BOGEY LOM.

DATES: Comments must be received on or before August 5, 2016.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Bldg Ground Floor Rm W12–140, Washington, DC 20591–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2016–5444; Airspace Docket No. 16–ANE–1, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class D airspace and Class E airspace at Cape Cod Coast Guard Air Station, Falmouth, MA.

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–

2016–5444; Airspace Docket No. 16–ANE–1) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2016–5444; Airspace Docket No. 16–ANE–1." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace designated as an extension at Cape Cod Coast Guard Air Station, Falmouth, MA. Airspace reconfiguration is necessary due to the decommissioning of the Otis TACAN, and for continued safety and management of IFR operations at the airport. Additionally, this action would note adjustment of the geographic coordinates of the above airport, as well as Falmouth Airpark, Barnstable Municipal Airport-Boardman/Polando Field, Chatham Municipal Airport, Martha's Vineyard Airport, and the BOGEY LOM navigation aid, to coincide with the FAAs aeronautical database. Also, this action would recognize the name change of Cape Cod Coast Guard Air Station, (formerly OTIS ANGB), and Martha's Vineyard Airport, (formerly Martha's Vineyard Municipal Airport).

Class D airspace and Class E airspace designations are published in Paragraphs 5000, 6004, and 6005 respectively, of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, paragraph 5.6.5a, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, effective September 15, 2015, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ANE MA D Falmouth, MA [Amended]

Cape Cod Coast Guard Air Station, MA
(Lat. 41°39′33″ N., long. 70°31′22″ W.)
Falmouth Airpark
(Lat. 41°35′08″ N., long. 70°32′25″ W.)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.4-mile radius of Cape Cod Coast Guard Air Station, excluding that airspace within a 1-mile radius of the Falmouth Airpark.

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

ANE MA E4 Falmouth, MA [Amended]

Cape Cod Coast Guard Air Station, MA
(Lat. 41°39′33″ N., long. 70°31′22″ W.)
Falmouth Airpark
(Lat. 41°35′08″ N., long. 70°32′25″ W.)

That airspace extending upward from the surface within 1.8 miles each side of the 55° bearing from the Cape Cod Coast Guard Air Station, extending from the 4.4-mile radius of the airport to 6 miles northeast of the airport, and within 1.8 miles each side of the 143° bearing from the airport, extending from the 4.4-mile radius to 6 miles southeast of the airport, and within 1.8 miles each side of the

234° bearing from the airport, extending from the 4.4-mile radius to 7 miles southwest of the airport, excluding that airspace within a 1-mile radius of the Falmouth Airpark, and within 1.8 miles each side of the 323° bearing from the airport, extending from the 4.4-mile radius to 6 miles northwest of the airport.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANE MA E5 Falmouth, MA [Amended]

Cape Cod Coast Guard Air Station, MA
(Lat. 41°39′33″ N., long. 70°31′22″ W.)
Barnstable Municipal Airport Boardman/ Polando Field
(Lat. 41°40′10″ N., long. 70°16′49″ W.)
Chatham Municipal Airport
(Lat. 41°41′18″ N., long. 69°59′23″ W.)
Martha's Vineyard Airport
(Lat. 41°23′36″ N., long.70°36′50″ W.)
Martha's Vineyard VOR/DME
(Lat. 41°23′46″ N., long.70°36′46″ W.)
BOGEY LOM
(Lat. 41°42′56″ W., long. 70°12′8″ W.)

That airspace extending upward from 700 feet above the surface within a 12.2-mile radius of Cape Cod Coast Guard Air Station, and within a 6.7-mile radius of Barnstable Municipal Airport, and within 3 miles each side of the BOGEY LOM 050° bearing extending from the 6.7-mile radius to 10 miles northeast of the BOGEY LOM, and within a 6.3-mile radius of Chatham Municipal Airport, and within a 6.5-mile radius of Martha's Vineyard Airport, and within 5.1 miles on each side of the 052° radial of Martha's Vineyard VOR/DME extending from the 6.5-mile radius to 14 miles northeast of Martha's Vineyard VOR/ DME.

Issued in College Park, Georgia, on June 9, 2016.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air traffic Organization.

[FR Doc. 2016–14376 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–6134; Airspace Docket No. 16–ASO–8]

Proposed Amendment of Class E Airspace, Glasgow, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Glasgow, KY as the Beaver Creek Non-Directional Beacon (NDB) has been decommissioned, requiring airspace reconfiguration at Glasgow Municipal Airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at the airport. This action also would update the geographic coordinates of the airport.

DATES: Comments must be received on or before August 5, 2016.

ADDRESSES: Send comments on this proposal to: U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Bldg Ground Floor Rm W12–140, Washington, DC 20591–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2016–6134; Airspace Docket No. 16–ASO–8, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace at Glasgow Municipal Airport, Glasgow, KY.

Comments Invited

Interested persons are invited to comment on this proposal by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2016–6134; Airspace Docket No. 16–ASO–8) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2016–6134; Airspace Docket No. 16–ASO–8." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet above the surface at Glasgow Municipal Airport, Glasgow, KY. Airspace reconfiguration to within a 7.4-mile radius of the airport is necessary due to the decommissioning of the Beaver Creek NDB and cancellation of the NDB approach, and for continued safety and management of IFR operations at the airport. The geographic coordinates of the airport would be adjusted to coincide with the FAAs aeronautical database.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore; (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, paragraph 5.6.5a, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, effective September 15, 2015, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO KY E5 Glasgow, KY [Amended]

Glasgow Municipal Airport, KY
(Lat. 37°01′54″ N., long. 85°57′14″ W.)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of Glasgow Municipal Airport.

Issued in College Park, Georgia, on June 9, 2016.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2016–14382 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 48

[Docket ID: BIA–2014–0007/167 A2100DD/AAKC001030/A0A501010.999900]

RIN 1076–AF14

Use of Bureau-Operated Schools by Third Parties Under Lease Agreements and Fundraising Activity by Bureau-Operated School Personnel

AGENCY: Bureau of Indian Education, Interior.

ACTION: Proposed rule.

SUMMARY: Congress authorized the Director of the Bureau of Indian Education (BIE) to enter into agreements with third parties to lease the land or facilities of a Bureau-operated school in exchange for funding that benefits the school. This proposed rule establishes standards for the appropriate use of lands and facilities under a lease agreement, provisions for establishment and administration of mechanisms for the acceptance of consideration for the use and benefit of a school, accountability standards to ensure ethical conduct, and provisions for monitoring the amount and terms of consideration received, the manner in which the consideration is used, and any results achieved by such use.

DATES: Please submit written comments by August 22, 2016. See the **SUPPLEMENTARY INFORMATION** section of this notice for dates of Tribal consultation sessions.

ADDRESSES: You may submit comments on the proposed rule by any of the following methods:

—*Federal rulemaking portal: http://www.regulations.gov.* The proposed rule is listed under the agency name "Bureau of Indian Affairs" and has been assigned Docket ID: BIA–2014–0007. If you would like to submit comments through the Federal e-Rulemaking Portal, go to *www.regulations.gov* and follow the instructions.

—*Email: bieleasing@bia.gov.* Include the number 1076–AF14 in the subject line of the message.

—*Mail or hand-delivery:* Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1849 C Street NW., MS 3642, Washington, DC 20240. Include the number 1076–AF14 on the envelope. Please note, email or *www.regulations.gov* are the preferred methods for submitting comments; there is no need to submit a hard copy if you have submitted the comments through either of these electronic methods.

Comments on the Paperwork Reduction Act information collections contained in this rule are separate from comments on the substance of the rule. Submit comments on the information collection requirements in this rule to the Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov* or by facsimile at (202) 395–5806. Please also send a copy of your comments to *comments@bia.gov.*

We cannot ensure that comments received after the close of the comment period (see **DATES**) will be included in the docket for this rulemaking and considered. Comments sent to an address other than those listed above will not be included in the docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Vicki Forrest, Deputy Director for School Operations, Bureau of Indian Education, (202) 208–6123.

SUPPLEMENTARY INFORMATION:

I. Background
II. Summary of Proposed Rule
III. Tribal Consultation
IV. Procedural Requirements
  A. Regulatory Planning and Review (E.O. 12866)
  B. Regulatory Flexibility Act
  C. Small Business Regulatory Enforcement Fairness Act
  D. Unfunded Mandates Reform Act
  E. Takings (E.O. 12630)
  F. Federalism (E.O. 13132)
  G. Civil Justice Reform (E.O. 12988)
  H. Consultation With Indian Tribes (E.O. 13175)
  I. Paperwork Reduction Act
  J. National Environmental Policy Act
  K. Effects on the Energy Supply (E.O. 13211)
  L. Clarity of This Regulation
  M. Public Availability of Comments

I. Background

Public Laws 112–74 and 113–235 authorize the Director of BIE, or the Director's designee, to enter into agreements with public and private persons and entities allowing them to lease the land or facilities of a Bureau-operated school in exchange for consideration (in the form of funds) that benefits the school. The head of the school is to determine the manner in which the consideration will be used to benefit the school, as long as they are for school purposes otherwise authorized by law. Congress provided that any funds under this section will not affect or diminish appropriations for the operation and maintenance of Bureau-operated schools, and that no funds will be withheld from distribution to the budget of a school due to receipt of such funds.

These public laws also allow personnel of Bureau-operated schools to participate in fundraising activity for the benefit of a Bureau-operated school in their official capacity, as part of their official duties.

To carry out these public law provisions, the Acts require the Secretary of the Interior to promulgate regulations. The Acts provide that the regulations must include standards for the appropriate use of Bureau-operated school lands and facilities by third parties under a rental or lease agreement; provisions for the establishment and administration of mechanisms for the acceptance of consideration for the use and benefit of a school; accountability standards to ensure ethical conduct; and provisions for monitoring the amount and terms of consideration received, the manner in which the consideration is used, and any results achieved by such use.

II. Summary of Proposed Rule

This rule would establish a new Code of Federal Regulations (CFR) part to implement the leasing and fundraising authority that Congress granted to BIA under Public Laws 112–74 and 113–235. The leasing provisions of this rule would apply only to facilities and land operated by the BIE. This proposed rule would not apply to public schools, Public Law 100–297 Tribally controlled grant schools, or Public Law 93–638 contract schools. This rule would implement statutory leasing authority specific to leasing of Bureau-operated facilities and land and be separate from the general statutory authority for leasing. To obtain approval of a lease of a Bureau-operated facility or land, one would need to comply with this new regulation, rather than the more generally applicable regulations at 25 CFR part 162. We note that nothing in this rule affects 25 CFR 31.2, which allows for use of Bureau-operated school facilities or land for community activities and adult education activities upon approval by the superintendent or officer-in-charge, where no consideration is received in exchange for the use of the facilities. The fundraising provisions of this proposed rule would apply only to employees of schools operated by the BIE.

Subpart A of the proposed rule would set forth the purpose, definitions, and other general provisions applicable to both leasing and fundraising.

Subpart B would establish the mechanisms and standards by which the Bureau may lease Bureau-operated school facilities and land to third parties. The proposed rule allows only the BIE Director or his or her designee to enter into leases and sets forth the standards the BIE Director (or designee) will use to determine whether to enter into a lease, including that the lease provides a net financial benefit to the school, that it meets certain standards (*e.g.,* complies with the mission of the school, conforms to principles of good order and discipline), and ensures the lease does not compromise the safety and security of students and staff or damage facilities. This subpart also establishes what provisions a lease must include, what actions are necessary if permanent improvements are to be constructed under the lease, and how the Bureau will ensure compliance with the lease. This subpart provides that the Bureau may only accept funds (as opposed to in-kind consideration) as consideration for a lease and may only use the funds for school purposes. It establishes how the Director will determine what amount is proper for lease consideration, and establishes the mechanics for lessees to pay consideration and how the Bureau will process the funds. Bureau-operated school personnel would be required to report quarterly on any active leases to the Director and others, including an accounting of all expenditures and supporting documentation showing expenditures were made for school purposes.

Subpart C of the proposed rule addresses fundraising activities by Bureau personnel on behalf of Bureau-operated schools. (Nothing in this proposed rule affects fundraising activities by students.) This subpart allows authorized personnel to spend a reasonable portion of his or her official duties fundraising, and allows unlimited fundraising in a personal capacity when not on duty. This subpart limits the types of fundraising an employee may conduct to ensure fundraising maintains the school's integrity, the Bureau's impartiality, and public confidence in the school. Certain approvals would be required before personnel may accept a donation on behalf of a school, and each Bureau-operated school that has received donations would be required to report quarterly to the Director and others, including an accounting of all expenditures and supporting documentation showing expenditures were made for school purposes.

III. Tribal Consultation

The Department is hosting a listening session on the proposed rule at 3 p.m. (local time) on Monday, June 27, 2016 in Spokane, Washington, in conjunction with the National Congress of American Indians mid-year conference.

The Department will also be hosting the following consultation sessions on this proposed rule:

Date	Time	Location
Monday, July 25, 2016	2 p.m. ET–4 p.m. ET	Teleconference: Call-In Number (877) 924–1752; passcode 1484699.
Friday, July 29, 2016	2 p.m. ET–4 p.m. ET	Teleconference: Call-In Number (877) 324–8525; passcode 7359354.

IV. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is not significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas.

We have developed this rule in a manner consistent with these requirements.

B. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It does not change current funding requirements and any economic effects on small entities would be fees charged for the use of the facilities, which would not have a significant economic effect on them. Small entities would rent the facilities only if the fees charged are reasonable.

C. Small Business Regulatory Enforcement Fairness Act

This proposed rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This proposed rule:

(a) Will not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act

This proposed rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The proposed rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

This proposed rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

G. Civil Justice Reform (E.O. 12988)

This proposed rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this proposed rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have identified substantial direct effects on federally recognized Indian Tribes that will result from this rulemaking. The Department acknowledges that Tribes with children attending Bureau-operated schools have an interest in this proposed rule because it provides for consideration for the leasing of Bureau-operated schools and fundraising standards for school employees. As such, the Department engaged Tribal government representatives by distributing a letter, dated June 19, 2014, with a copy of the draft rule and requesting comment on the draft rule by July 31, 2014. The Department received no comments on the draft rule, but has scheduled consultation sessions with Tribal officials on this proposed rule. (See Section III of this preamble for details on the dates and locations of the Tribal consultation sessions).

I. Paperwork Reduction Act

This proposed rule contains information collections that require approval by OMB. The Department is seeking approval of a new information collection and a revision to an existing regulation, as follows.

OMB Control Number: 1076–NEW.

Title: Use of Bureau-Operated Schools by Third Parties.

Brief Description of Collection: The Bureau of Indian Education (BIE) is proposing to establish standards for the appropriate use of lands and facilities by third parties. These standards address the following: the execution of lease agreements; the establishment and administration of mechanisms for the acceptance of consideration for the use and benefit of a Bureau-operated school;

the assurance of ethical conduct; and monitoring the amount and terms of consideration received, the manner in which the consideration is used, and any results achieved by such use. The paperwork burden associated with the proposed rule results from lease provisions; lease violations; and assignments, subleases, or mortgages of leases.

Type of Review: New collection.

Respondents: Individuals and Private Sector.

Number of Respondents: 24.

Number of Responses: 24.

Frequency of Response: Annually.

Estimated Time per Response: One to three hours.

Estimated Total Annual Hour Burden: 68 hours.

Estimated Total Annual Non-Hour Cost Burden: $0.

CFR Cite	Description	Number respondents	Annual responses	Burden hours per response	Total annual burden hours
48.105, 48.106	Provisions of leases and the construction of permanent improvements under the lease (businesses).	17	17	3	51
48.105, 48.106	Provisions of leases and the construction of permanent improvements under the lease. (individuals)	3	3	3	9
48.116	Violations of leases (businesses)	1	1	1	1
48.116	Violations of leases (individuals)	1	1	1	1
48.118	Assignments, subleases, and mortgages of leases (businesses).	1	1	3	3
48.118	Assignments, subleases, and mortgages of leases (individuals).	1	1	3	3
	Total	24	24		68

OMB Control Number: 1090–0009.

Title: Donor Certification Form.

Brief Description of Collection: This information will provide Department staff with the basis for beginning the evaluation as to whether the Department will accept the proposed donation. The authorized employee will receive the donor certification form in advance of accepting the proposed donation. The employee will then review the totality of circumstances surrounding the proposed donation to determine whether the Department can accept the donation and maintain its integrity, impartiality, and public confidence. We expect to receive 25 responses to this information collection annually. The burden associated with this information collection is already reflected in the approval of OMB Control Number 1090–0009.

J. National Environmental Policy Act

This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the environmental effects of this proposed rule are too speculative to lend themselves to meaningful analysis and will later be subject to the NEPA process, unless covered by a categorical exclusion. (For further information see 43 CFR 46.210(i)). We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

K. Effects on the Energy Supply (E.O. 13211)

This proposed rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

L. Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

a. Be logically organized;
b. Use the active voice to address readers directly;
c. Use clear language rather than jargon;
d. Be divided into short sections and sentences; and
e. Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

M. Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects in 25 CFR Part 48

Educational facilities, Indians—education.

For the reasons given in the preamble, the Department of the Interior proposes to amend 25 CFR chapter I, subchapter E, to add part 48 to read as follows:

PART 48—LEASES COVERING BUREAU-OPERATED SCHOOLS AND FUNDRAISING ACTIVITIES AT BUREAU-OPERATED SCHOOLS

Subpart A—General Provisions

Sec.
48.1 What is the purpose of this part?
48.2 What is the scope of this part?
48.3 What terms do I need to know?
48.4 What is considered unethical conduct in the context of this part?
48.5 What accounting standards will the Bureau use in monitoring the receipt, holding, and use of funds?
48.6 How long will the funds be available?
48.7 How does the Paperwork Reduction Act affect this part?

Subpart B—Leasing of Bureau-Operated Facilities

48.101 Who may enter into a lease on behalf of a Bureau-operated school?
48.102 With whom may the Director enter into a lease?
48.103 What facilities may be leased?
48.104 What standards will the Director use in determining whether to enter into a lease?

48.105 What provisions must a lease contain?
48.106 May a lessee construct permanent improvements under a lease?
48.107 What consideration may a Bureau-operated school accept in exchange for a lease?
48.108 How will the Bureau determine appropriate consideration for a lease?
48.109 Who may use the funds?
48.110 For what purposes may a Bureau-operated school use the funds?
48.111 How does a lessee pay the Bureau-operated school under a lease?
48.112 How are lease payments processed?
48.113 Will late payment charges or special fees apply to delinquent lease payments?
48.114 How will the Bureau monitor the results achieved by the use of funds received from leases?
48.115 Who may investigate compliance with a lease?
48.116 What will the Bureau do about a violation of a lease?
48.117 What will the Bureau do if a lessee does not cure a lease violation on time?
48.118 May a lease be assigned, subleased, or mortgaged?

Subpart C—Fundraising Activities

48.201 To whom does this subpart apply?
48.202 May employees fundraise?
48.203 How much time may employees spend fundraising?
48.204 For what school purposes may employees fundraise?
48.205 What are the limitations on fundraising?
48.206 What approvals are necessary to accept a donation?
48.207 How may the donations solicited under this subpart be used?

Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9; Pub. L. 112–74; Pub. L. 113–235.

Subpart A—General Provisions

§ 48.1 What is the purpose of this part?

(a) The purpose of this part is to set forth processes and procedures to:

(1) Implement authorization for the Director to lease or rent Bureau-operated school facilities in exchange for consideration in the form of funds;

(2) Establish mechanisms and standards for leasing or renting of Bureau-operated facilities, and management and use of the funds received as consideration;

(3) Describe allowable fundraising activities by the employees of Bureau-operated schools;

(4) Set accountability standards to ensure ethical conduct; and

(5) Establish provisions for monitoring the amount and terms of consideration received, the manner in which the consideration is used, and any results achieved by such use.

(b) Nothing in this part affects:

(1) 25 CFR 31.2, allowing for use of Federal Indian school facilities for community activities and adult education activities upon approval by the superintendent or officer-in-charge, where no consideration is received in exchange for the use of the facilities;

(2) 26 CFR 31.7 and 36.43(g), establishing guidelines for student fundraising; or

(3) The implementing regulations for the Federal Employees Quarters Facilities Act, 5 U.S.C. 5911, at 41 CFR part 114–51 and policies at Departmental Manual part 400, chapter 3; or

(4) The use of Bureau-operated school facilities or lands by other Federal agencies so long as the use is memorialized in a written agreement between the BIE and the other Federal agency.

§ 48.2 What is the scope of this part?

The leasing provisions of this part apply only to facilities operated by the BIE and the fundraising provisions of this part apply only to employees of schools operated by the BIE. This part does not apply to public schools, Public Law 100–297 Tribally controlled schools, or Public Law 93–638 contract or grant schools.

§ 48.3 What terms do I need to know?

Assistant Secretary means the Assistant Secretary—Indian Affairs or his or her designee.

Bureau means the Bureau of Indian Education.

Bureau official means the official in charge of administrative functions for the Bureau under this part.

Bureau-operated school means a day or boarding school, or a dormitory for students attending a school other than a Bureau school, an institution of higher learning and associated facilities operated by the Bureau. This term does not include public schools, Public Law 100–297 Tribally controlled schools, or Public Law 93–638 contract or grant schools.

Construction means construction of new facilities, modification, or alteration of existing grounds or building structures.

Designee means a supervisory contracting specialist the Director designates to act on his or her behalf.

Director means the Director, Bureau of Indian Education.

Department means the Department of the Interior.

Donation means something of value (*e.g.,* funds, land, personal property) received from a non-Federal source without consideration or an exchange of value.

Employee means an employee of the Bureau working with or at a Bureau-operated school.

Facilities means land or facilities authorized for use by a Bureau-operated school.

Funds means money.

Fundraising means requesting donations, selling items, or providing a service, activity, or event to raise funds, except that writing a grant proposal to secure resources to support school purposes is not fundraising. Fundraising does not include requests for donated supplies, materials, in-kind services, or funds (*e.g.,* fees for school activities) that schools traditionally require or request parents and guardians of students to provide.

Head of the School means the Principal, President, School Supervisor, Residential Life Director, Superintendent of the School, or equivalent head of a Bureau-operated school where facilities are being leased under this Part.

Lease means a written contract or rental agreement executed in accordance with this part, granting the possession and use of facilities at a Bureau-operated school to a private or public person or entity in return for funds.

Private person or entity means an individual who is not acting on behalf of a public person or entity and includes, but is not limited to, private companies, nonprofit organizations and any other entity not included in the definition of public person or entity.

Public person or entity means a State, local, Federal or Tribal governmental agency or unit thereof.

School purposes means lawful activities and purchases for the benefit of students and school operations including, but not limited to: Academic, residential, and extra-curricular programs during or outside of the normal school day and year; books, supplies or equipment for school use; building construction, maintenance and/or operations; landscape construction, modifications, or maintenance on the school grounds.

§ 48.4 What is considered unethical conduct in the context of this part?

Violation or the appearance of violation of any applicable ethics statute or regulation by an employee may be considered unethical conduct.

§ 48.5 What accounting standards will the Bureau use in monitoring the receipt, holding, and use of funds?

The Bureau will use applicable Federal financial accounting rules in monitoring the receipt, holding, and use of funds.

§ 48.6 How long will the funds be available?

Funds generated under these regulations remain available to the recipient school until expended, notwithstanding 31 U.S.C. 3302.

§ 48.7 How does the Paperwork Reduction Act affect this part?

The collections of information in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 1076–NEW and OMB Control Number 1090–0009. Response is required to obtain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Subpart B—Leasing of Bureau-Operated Facilities

§ 48.101 Who may enter into a lease on behalf of a Bureau-operated school?

Only the Director or a designee may enter into leases.

§ 48.102 With whom may the Director enter into a lease?

The Director or designee may lease to public or private persons or entities who meet the requirements of this part that are applicable to leasing activities.

§ 48.103 What facilities may be leased?

Any portion of a Bureau-operated school facility may be leased as long as the lease does not interfere with the normal operations of the Bureau-operated school, student body, or staff, and otherwise meets applicable requirements of this part.

§ 48.104 What standards will the Director use in determining whether to enter into a lease?

(a) The Director or designee will make the final decision regarding approval of a proposed lease. The Director or designee must ensure that the lease provides a net financial benefit to the school and that the Head of the School has certified, after consultation with the school board or board of regents, that the lease meets the standards in paragraph (b) of this section.

(b) The lease must:

(1) Comply with the mission of the school;

(2) Conform to principles of good order and discipline;

(3) Not interfere with existing or planned school activities or programs;

(4) Not interfere with school board staff and/or community access to the school;

(5) Not allow contact or access to students inconsistent with applicable law;

(6) Not result in any Bureau commitments after the lease expires; and

(7) Not compromise the safety and security of students and staff or damage facilities.

(c) The Director's or designee's decision on a proposed lease is discretionary and is not subject to review or appeal under part 2 of this chapter or otherwise.

§ 48.105 What provisions must a lease contain?

(a) All leases of Bureau-operated facilities must identify:

(1) The facility, or portion thereof, being leased;

(2) The purpose of the lease and authorized uses of the leased facility;

(3) The parties to the lease;

(4) The term of the lease, and any renewal term, if applicable;

(5) The ownership of permanent improvements and the responsibility for constructing, operating, maintaining, and managing permanent improvements, and meeting due diligence requirements under § 48.106;

(6) Payment requirements and late payment charges, including interest;

(7) That lessee will maintain insurance sufficient to cover negligence or intentional misconduct occurring on the leasehold; and

(8) Any bonding requirements, as required in the discretion of the Director. If a performance bond is required, the lease must state that the lessee must obtain the consent of the surety for any legal instrument that directly affects their obligations and liabilities.

(b) All leases of Bureau-operated facilities must include the following provisions:

(1) There must not be any unlawful conduct, creation of a nuisance, illegal activity, or negligent use or waste of the leased premises;

(2) The lessee must comply with all applicable laws, ordinances, rules, regulations, and other legal requirements;

(3) The Bureau has the right, at any reasonable time during the term of the lease and upon reasonable notice to enter the leased premises for inspection and to ensure compliance; and

(4) The Bureau may, at its discretion, treat as a lease violation any failure by the lessee to cooperate with a request to make appropriate records, reports, or information available for inspection and duplication.

(c) Unless the lessee would be prohibited by law from doing so, the lease must also contain the following provisions:

(1) The lessee holds the United States harmless from any loss, liability, or damages resulting from the lessee's, its invitees', and licensees' use or occupation of the leased facility; and

(2) The lessee indemnifies the United States against all liabilities or costs relating to the use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials, or the release or discharge of any hazardous material from the leased premises that occurs during the lease term, regardless of fault, with the exception that the lessee is not required to indemnify the Indian landowners for liability or cost arising from the Indian landowners' negligence or willful misconduct.

§ 48.106 May a lessee construct permanent improvements under a lease?

(a) The lessee may construct permanent improvements under a lease of a Bureau-operated facility only if the lease contains the following provisions.

(1) A description of the type and location of any permanent improvements to be constructed by the lessee and a general schedule for construction of the permanent improvements, including dates for commencement and completion of construction;

(2) Specification of who owns the permanent improvements the lessee constructs during the lease term and specifies whether each specific permanent improvement the lessee constructs will:

(i) Remain on the leased premises, upon the expiration, cancellation, or termination of the lease, in a condition satisfactory to the Director, and become the property of the Bureau-operated school;

(ii) Be removed within a time period specified in the lease, at the lessee's expense, with the leased premises to be restored as closely as possible to their condition before construction of the permanent improvements; or

(iii) Be disposed of by other specified means.

(3) Due diligence requirements that require the lessee to complete construction of any permanent improvements within the schedule specified in the lease or general schedule of construction, and a process for changing the schedule by mutual consent of the parties.

(i) If construction does not occur, or is not expected to be completed, within the time period specified in the lease, the lessee must provide the Director with an explanation of good cause as to the nature of any delay, the anticipated date of construction of facilities, and evidence of progress toward commencement of construction.

(ii) Failure of the lessee to comply with the due diligence requirements of the lease is a violation of the lease and may lead to cancellation of the lease.

(b) The lessee must prepare the required information and analyses, including information to facilitate the Bureau's analysis under applicable environmental and cultural resource requirements.

(c) The Bureau may take appropriate enforcement action to ensure removal of the permanent improvements and restoration of the premises at the lessee's expense before or after expiration, termination, or cancellation of the lease. The Bureau may collect and hold the performance bond or alternative form of security until removal and restoration are completed.

(d) The due diligence requirements of this section do not apply to leases for religious, educational, recreational, cultural, or other public purposes.

§ 48.107 What consideration may a Bureau-operated school accept in exchange for a lease?

A Bureau-operated school may accept only funds as consideration for a lease.

§ 48.108 How will the Bureau determine appropriate consideration for a lease?

The Bureau will determine what consideration is appropriate for a lease by considering, at a minimum, the following factors:

(a) The indirect and direct costs of the lease; and

(b) Whether there will be a net financial benefit to the school.

§ 48.109 Who may use the funds?

The Bureau-operated school may use funds, including late payment charges, received as compensation for leasing that school's facilities. The funds must first be sent to the Bureau official as provided for in the subject lease for processing in accordance with § 48.112.

§ 48.110 For what purposes may a Bureau-operated school use the funds?

The Bureau-operated school must first use the funds to pay for indirect and direct costs of the lease. The Bureau-operated school must use the remaining funds for any school purposes.

§ 48.111 How does a lessee pay the Bureau-operated school under a lease?

A lessee must pay consideration and any late payment charges due under the lease to the Bureau-operated school by certified check, money order, or electronic funds transfer made out to the Bureau and containing identifying information as provided for in the lease.

§ 48.112 How are lease payments processed?

The Bureau official must deposit funds received as lease consideration or late payment charge into the Treasury account set up to receive the proceeds from the Bureau-operated school's lease.

§ 48.113 Will late payment charges or special fees apply to delinquent lease payments?

(a) Late payment charges will apply as specified in the lease. The failure to pay these amounts will be treated as a lease violation.

(b) We may assess the following special fees to cover administrative costs incurred by the United States in the collection of the debt, if rent is not paid in the time and manner required, in addition to late payment charges that must be paid under the terms of the lease:

The lessee will pay . . .	For . . .
(1) $50.00	Any dishonored check.
(2) $15.00	Processing of each notice or demand letter.
(3) 18 percent of balance due.	Treasury processing following referral for collection of delinquent debt.

§ 48.114 How will the Bureau monitor the results achieved by the use of funds received from leases?

The Head of the School for each Bureau-operated school that has active leases under this part must submit a quarterly report to the Director, the designee, and the Office of Facilities Management and Construction. The report must contain the following information:

(a) A list of leases and the facilities covered by each lease;

(b) An accounting of receipts from each lease;

(c) An accounting of all expenditures and the supporting documentation showing that expenditures were made for school purposes;

(d) A report of the benefits provided by the leasing program as a whole;

(e) A certification that the terms of each lease were met or, if the terms of a lease were not met, the actions taken as a result of the noncompliance; and

(f) Any unexpected expenses incurred.

§ 48.115 Who may investigate compliance with a lease?

The Head of the School or his designee or any Bureau official may enter the leased facility at any reasonable time, upon reasonable notice, and consistent with any notice requirements under the lease to determine if the lessee is in compliance with the requirements of the lease.

§ 48.116 What will the Bureau do about a violation of a lease?

(a) If the Bureau determines there has been a violation of the conditions of a lease, it will promptly send the lessee and any surety and mortgagee a notice of violation, by certified mail, return receipt requested.

(1) The notice of violation will advise the lessee that, within 10 business days of the receipt of a notice of violation, the lessee must:

(i) Cure the violation and notify the Bureau in writing that the violation has been cured;

(ii) Dispute the determination that a violation has occurred; or

(iii) Request additional time to cure the violation.

(2) The notice of violation may order the lessee to cease operations under the lease.

(b) A lessee's failure to pay compensation in the time and manner required by the lease is a violation of the lease, and the Bureau will issue a notice of violation in accordance with this section requiring the lessee to provide adequate proof of payment.

(c) The lessee and its sureties will continue to be responsible for the obligations in the lease until the lease expires, or is terminated or cancelled.

§ 48.117 What will the Bureau do if a lessee does not cure a lease violation on time?

(a) If the lessee does not cure a violation of a lease within the required time period, or provide adequate proof of payment as required in the notice of violation, the Bureau will take one or more of the following actions:

(1) Cancel the lease;

(2) Invoke other remedies available under the lease or applicable law, including collection on any available performance bond or, for failure to pay compensation, referral of the debt to the Department of the Treasury for collection; or

(3) Grant the lessee additional time in which to cure the violation.

(b) The Bureau may take action to recover unpaid compensation and any associated late payment charges, and does not have to cancel the lease or give any further notice to the lessee before taking action to recover unpaid compensation. The Bureau may still take action to recover any unpaid compensation if it cancels the lease.

(c) If the Bureau decides to cancel the lease, it will send the lessee and any surety and mortgagee a cancellation letter by certified mail, return receipt requested, within 5 business days of our decision. The cancellation letter will:

(1) Explain the grounds for cancellation;

(2) If applicable, notify the lessee of the amount of any unpaid compensation or late payment charges due under the lease;

(3) Notify the lessee of the lessee's right to appeal under part 2 of this chapter, including the possibility that the official to whom the appeal is made may require the lessee to post an appeal bond;

(4) Order the lessee to vacate the property within 31 days of the date of receipt of the cancellation letter, if an appeal is not filed by that time; and

(5) Order the lessee to take any other action the Bureau deems necessary to protect the facility.

(d) The Bureau may invoke any other remedies available to us under the lease, including collecting on any available performance bond.

§ 48.118 May a lease be assigned, subleased, or mortgaged?

A lessee may assign, sublease, or mortgage a lease only with the approval of the Director.

Subpart C—Fundraising Activities

§ 48.201 To whom does this subpart apply?

This subpart applies to employees under the direction and supervision of the Director that fundraise for a Bureau-operated school. This subpart does not apply to students who fundraise.

§ 48.202 May employees fundraise?

(a) Employees may fundraise for school purposes as part of their official duties using their official title, position and authority, or in a personal capacity, so long as:

(1) The Bureau official approves the fundraising in advance and certifies that it complies with this subpart; and

(2) The employees ensure the fundraising conforms to the requirements of this subpart.

(b) Nothing in this part allows participation in political or other activities prohibited by law.

§ 48.203 How much time may employees spend fundraising?

(a) Each authorized employee may spend no more than a reasonable portion of his or her official duties as an employee in any calendar year fundraising.

(b) There is no limit to the time employees may spend fundraising in a personal capacity when not on duty, as long as other requirements of this subpart are met.

§ 48.204 For what school purposes may employees fundraise?

Employees may fundraise for school purposes as defined in § 48.3.

§ 48.205 What are the limitations on fundraising?

(a) Fundraising may not include any gaming or gambling activity.

(b) Fundraising may not violate, or create an appearance of violating, any applicable ethical statutes or regulations.

(c) Fundraising and donations must maintain the integrity of the Bureau-operated school programs and operations, including but not limited to the following considerations:

(1) The donation may not, and may not appear, to be an attempt to influence the exercise of any regulatory or other authority of the Bureau;

(2) The donation may not require commitment of current or future funding that is not planned or available;

(3) The donation must be consistent with, and may not otherwise circumvent, law, regulation, or policy;

(4) The Bureau-operated school must be able to properly utilize or manage any donated real or personal property within policy, programmatic, and management goals;

(5) Any conditions on the donation must be consistent with authorized school purposes and any relevant policy or planning documents;

(6) The donation may not be used by the donor to state or imply endorsement by the Bureau or Bureau-operated school of the donor or the donor's products or services;

(7) The donation, if it consists of personnel or funding to hire personnel, must be structured such that the donated or funded personnel do not inappropriately influence any Bureau regulatory action or other significant decision.

(d) The fundraising and donation must maintain the impartiality, and appearance of impartiality, of the Bureau, Bureau-operated school, and its employees, including but not limited to the following considerations:

(1) The proposed donation may be only in an amount that would not influence or appear to influence any pending Bureau decision or action involving the donor's interests;

(2) There may be no actual or implied commitment to take an action favorable to the donor in exchange for the donation;

(3) The donor may not obtain or appear to obtain special treatment dealing with the Bureau or Bureau-operated school.

(e) The fundraising and donation must maintain public confidence in the Bureau and Bureau-operated school, its programs, and its personnel, including but not limited to the following considerations:

(1) The fundraising and acceptance of the donation would not likely result in public controversy;

(2) Any conditions on donations must be consistent with the Bureau and Bureau-operated school's policy, goals, and programs; and

(3) The fundraising and donation may not involve any inappropriate goods or services.

(f) Participation in fundraising is voluntary. No student, community member, or organization shall be forced, coerced or otherwise unduly pressured to participate in fundraising. No reprimand, condemnation, nor criticism shall be made of, nor any retaliatory action taken against, any student, community member, or organization for failure to participate or succeed in fundraising.

§ 48.206 What approvals are necessary to accept a donation?

(a) Prior to accepting a donation, the Bureau official must approve the acceptance and certify that it complies with this subpart, including the considerations of § 48.205, Departmental policy, and any applicable statute or regulation.

(b) Prior to accepting a donation that consists of volunteer services, the Bureau official must approve the acceptance and certify that it complies with this subpart, including the considerations of § 48.205, 25 CFR 38.14, Departmental policy, and any applicable statute or regulation.

§ 48.207 How may donations solicited under this subpart be used?

(a) The Bureau official must deposit all income from the fundraising into the Treasury account set up to receive the proceeds from the fundraising activities authorized under this part. The Bureau-operated school must first use the funds to pay documented costs of the fundraising activity and must use the remaining funds in accordance with paragraph (b) of this section.

(b) Funds and in-kind donations solicited under this subpart may be used for the school purposes identified in the solicitation. If the solicitation did not identify the school purposes, the funds and in-kind donations may be used for any school purposes defined in § 48.3.

(c) Each Bureau-operated school that has received donations must submit a quarterly report to the Director containing the following information:

(1) A list of donors, donation amounts, and estimated values of donated goods and services;

(2) An accounting of all costs of fundraising activities;

(3) Supporting documentation showing the donations were used for school purposes; and

(4) A report of the results achieved by use of donations.

Dated: June 15, 2016.

Lawrence S. Roberts,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2016–14665 Filed 6–20–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–108060–15]

RIN 1545–BN40

Treatment of a Certain Interests in Corporations as Stock or Indebtedness; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of a public hearing on notice of proposed rulemaking.

SUMMARY: This document provides a notice of public hearing on proposed regulations under section 385 of the Internal Revenue Code that would authorize the Commissioner to treat certain related-party interests in a corporation as indebtedness in part and stock in part for federal tax purposes, and establish threshold documentation requirements that must be satisfied in order for certain related-party interests in a corporation to be treated as indebtedness for federal tax purposes. The proposed regulations also would treat as stock certain related-party interests that otherwise would be treated as indebtedness for federal tax purposes.

DATES: The public hearing is being held on Thursday, July 14, 2016, at 10:00 a.m. Written or electronic comments and outlines of the topics to be discussed at the public hearing are still being accepted and must be received by July 7, 2016.

ADDRESSES: The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

Send Submissions to CC:PA:LPD:PR (REG–108060–15), Room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday to CC:PA:LPD:PR (REG–108060–15), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–108060–15).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Austin M. Diamond-Jones at (202) 317–5363, and Raymond J. Stahl at (202) 317–6938; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing Regina Johnson at (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG–108060–15) that was published in the **Federal Register** on Friday, April 8, 2016 (81 FR 20912).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit an outline of the topics to be addressed and the amount of time to be devoted to each topic by Thursday, July 7, 2016.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or by contacting the Publications and Regulations Branch at (202) 317–6901 (not a toll-free number).

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2016–14734 Filed 6–20–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2015–0492]

RIN 1625–AA00

Safety Zone; Lower Niagara River at Niagara Falls, New York

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish regulations for a permanent safety zone within the Captain of the Port Zone Buffalo on the Lower Niagara River, Niagara Falls, NY.

This proposed rule is intended to restrict vessels from a portion of the Lower Niagara River considered not navigable as listed in the United States Coast Pilot Book 6—Great Lakes: Lake Ontario, Erie, Huron, Michigan and Superior and St. Lawrence River and more specifically as described below. The safety zone to be established by this proposed rule is necessary to protect the public and vessels from the hazards associated with the heavy rapids in the narrow waterway of the Lower Niagara River.

DATES: Comments and related materials must be received by the Coast Guard on or before September 19, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2015–0492 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Delivery:* At the same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email LTJG Amanda Garcia, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone

716–843–9322, email *SectorBuffaloMarineSafety@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2015–0492), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when the comment is successfully transmitted. If you fax, hand deliver, or mail your comment, it will be considered received by the Coast Guard when the comment is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, type the docket number [USCG–2015–0492] in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number (USCG–2015–0492) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a separate public meeting on this subject. You may submit a request for an additional and/or separate meeting using one of the methods specified under **ADDRESSES**. Any subsequent meetings held where public comment is sought to aid this rulemaking will be held at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

The Coast Guard has already established a permanent safety zone in the Upper Niagara River per 33 CFR 165.902(a) to protect the boating public from the dangers of the waters above and at Niagara Falls. These waters include the United States waters of the Niagara River from the crest of the American and Horseshoe Falls, Niagara Falls, New York to a line drawn across the Niagara River from the downstream side of the mouth of Gill Creek to the upstream end of the breakwater at the mouth of the Welland River.

The heavy rapids in the section of the Lower Niagara River downstream of Niagara Falls have not historically been subject to regular navigation of vessels. In early 2014, the Captain of the Port Zone Buffalo received reports of vessels transiting this section of the Niagara River. These reports prompted further evaluation of the safety of the entire waterway. This NPRM was not preceded by an Advance Notice of Proposed Rulemaking (ANPRM), and thus no public comments have yet to be received.

C. Basis and Purpose

Due to the reports of vessels transiting this section of the Lower Niagara River an evaluation of the safety of navigation on the heavy rapids was undertaken by federal, state, and local agencies that have cognizance over the waterway. These agencies include the United States Coast Guard, the New York Office of Parks, Recreation, and Historic Preservation (OPRHP), and the New York State Park Police (NYSPP).

The purpose of the evaluation was to determine what, if any, rescue capability exists that would be able to respond to vessels and/or passengers in distress in the heavy rapids of the river south of the whirlpool rapids to the International Railroad Bridge.

Currently, the only agencies that could possibly provide response capabilities include the United States Coast Guard and the New York State Park Police (NYSPP). The NYSPP, per a Memorandum of Agreement between the New York State Office of Parks, Recreation and Historic Preservation (OPRHP), the NYSPP, and the Coast Guard, is the Search and Rescue Mission Coordinator (SMC) in the proposed area.

The NYSPP does not have search and rescue capabilities in these waters beyond shore-based rescue and recovery. Additionally, applicable New York state law prohibits launching a vessel in these areas. The United States Coast Guard similarly is limited in its ability to respond to any vessel casualty that may occur in these waters, as there are neither vessel capabilities nor adequate air support in the area.

Accordingly, the Captain of the Port Zone Buffalo has determined that no feasible rescue capability exists for vessels in distress or persons in the water in the heavy rapids south of the whirlpool rapids to the International Railroad Bridge. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231

D. Discussion of Proposed Rule

With the aforementioned hazards and lack of adequate rescue capability, the Captain of the Port Zone Buffalo proposes to establish a permanent safety zone that will ensure the safety of the public.

(a) The proposed safety zone will encompass all waters of the Lower

Niagara River, Niagara Falls, NY from a straight line drawn from position 43°07′10.70″ N., 079°04′02.32″ W. (NAD 83) and 43°07′09.41″ N., 079°04′05.41″ W. (NAD 83) just south of the whirlpool rapids from the east side of the river to the international border of the United States, to a straight line drawn from position 43°06′34.01″ N., 079°03′28.04″ W. (NAD 83) and 43°06′33.52″ N., 079°03′30.42″ W. (NAD 83) at the International Railroad Bridge. Entry into, transiting, or anchoring within the proposed safety zone is prohibited unless authorized by the Captain of the Port Zone Buffalo.

E. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this proposed rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this proposed rule will be relatively small and is designed to minimize its impact on navigable waters.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities. This proposed rule may affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit in the portion of American waters at the whirlpool rapids.

This proposed safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: There have not been a substantial number of small entities attempting navigation on this section of the river.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that comment on this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and determined that this rulemaking does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children From Environmental Health Risks

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This proposed rule is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Commandant Instruction because it involves the establishment of a safety zone.

A preliminary environmental analysis checklist and a preliminary categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.902(b) to read as follows:

§ 165.902 Niagara River at Niagara Falls, New York—safety zone.

* * * * *

(b) The following is a safety zone—The United States waters of the Lower Niagara River, Niagara Falls, NY from a straight line drawn from position 43°07′10.70″ N., 079°04′02.32″ W. (NAD 83) and 43°07′09.41″ N., 079°04′05.41″ W. (NAD 83) just south of the whirlpool rapids from the east side of the river to the international border of the United States, to a straight line drawn from position 43°06′34.01″ N., 079°03′28.04″ W. (NAD 83) and 43°06′33.52″ N., 079°03′30.42″ W. (NAD 83) at the International Railroad Bridge.

Dated: June 15, 2016.

B.W. Roche,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2016–14620 Filed 6–20–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2016–0320; FRL–9947–96–Region 2]

Disapproval of Interstate Transport Requirements for the 2008 Ozone National Ambient Air Quality Standards; New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to partially approve and partially disapprove elements of New York's State Implementation Plan (SIP) submission regarding the infrastructure requirements of section 110(a)(1) and (2) of the Clean Air Act (CAA) for the 2008 ozone national ambient air quality standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. This action pertains specifically to infrastructure requirements concerning interstate transport provisions.

DATES: Comments must be received on or before July 21, 2016.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R02–OAR–2016–0320 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Kenneth Fradkin, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, NY 10007–1866, (212) 637–3702, or by email at *Fradkin.Kenneth@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background
II. EPA's Review
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews

I. Background

Section 110(a) of the CAA imposes an obligation upon states to submit SIPs that provide for the implementation, maintenance and enforcement of a new or revised NAAQS within 3 years following the promulgation of that NAAQS. Section 110(a)(2) lists specific requirements that states must meet in these SIP submissions, as applicable. The EPA refers to this type of SIP submission as the "infrastructure" SIP because the SIP ensures that states can implement, maintain and enforce the air standards. Within these requirements, section 110(a)(2)(D)(i) contains requirements to address interstate transport of NAAQS pollutants. A SIP revision submitted for this sub-section is referred to as an "interstate transport SIP." This rulemaking proposes action on the CAA section 110(a)(2)(D)(i) requirements of these submissions. In particular, section 110(a)(2)(D)(i)(I) requires SIPs to contain adequate provisions to prohibit emissions from the state that will contribute significantly to nonattainment of the NAAQS in any other state (commonly referred to as prong 1), or interfere with maintenance of the NAAQS in any other state (prong 2). Section 110(a)(2)(D)(i)(II) requires that infrastructure SIPs include provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required to prevent significant deterioration (PSD) of air quality (prong 3) and to protect visibility (prong 4) in another state.

On March 12, 2008, EPA strengthened the NAAQS for ozone. EPA revised the level of the 8-hour ozone NAAQS from 0.08 parts per million (ppm) to 0.075 ppm. EPA also revised the secondary 8-hour standard to the level of 0.075 ppm making it identical to the revised primary standard. Infrastructure SIPs addressing the revised standard, including the interstate transport requirements, were due March 12, 2011. On April 4, 2013 the New York State Department of Environmental Conservation (NYSDEC) submitted a revision to its SIP to address requirements under section 110(a)(2) of the CAA (the infrastructure requirements) related to the 2008 ozone NAAQS, including interstate transport.

This proposed action pertains only to the portion of the SIP submittal addressing section 110(a)(2)(D)(i)(I)(prongs 1 and 2), and section 110(a)(2)(D)(i)(II)(prong 4). EPA will address the other portions of the April 4, 2013 infrastructure SIP submittal, including section 110(a)(2)(D)(i)(II)(prong 3), in another action.

II. EPA's Review

Section 110(a)(2)(D) of the Clean Air Act is divided into two subsections: 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). The first of these, 110(a)(2)(D)(i), in turn, contains four "prongs" the first two of which appear in 110(a)(2)(D)(i)(I) and the second two of which appear in 110(a)(2)(D)(i)(II). The two prongs in 110(a)(2)(D)(i)(I) require New York's SIP to contain adequate provisions prohibiting any source or other type of emissions activity within the State from emitting any air pollutants in amounts which will contribute significantly to nonattainment in any other state with respect to any primary or secondary NAAQS (prong 1), or interfere with maintenance by any other state with respect to any primary or secondary NAAQS (prong 2). The two prongs in 110(a)(2)(D)(i)(II) prohibit any source or other type of emissions activity within the State from emitting any air pollutants in amounts which will interfere with measures required to be included in the applicable implementation plan for any other state under part C to prevent significant deterioration of air quality (prong 3) or to protect visibility (prong 4).

Section 110(a)(2)(D)(i)(I)—Prongs 1 and 2

In its SIP submission with respect to section 110(a)(2)(D)(i)(I) (prongs 1 and 2) for the 2008 ozone NAAQS, New York cited various state rules including its nitrogen oxides (NO_X) Reasonably Available Control Technology (RACT) regulations to reduce emissions of NO_X from its major stationary sources; NO_X RACT Rules for Cement Plants, Glass Plants, Asphalt Production, and other general emission sources; volatile organic carbon (VOC) regulations that limit emissions from major and area sources; and the California low emission vehicle program provisions under CAA Section 177.

In its submittal, New York indicated that, based on preliminary emissions inventory work, the state would achieve significant NO_X and VOC reductions from existing emission reduction programs. New York estimated that, between 2007 and 2020, it will reduce NO_X emissions by 46.6% (from 579,471 tons to 328,457 tons). Specifically, New York estimated that NO_X RACT limitations will result in NO_X emission reductions of 28,796 tons per year, or 78.9 tons per day from 2007 levels. With regard to VOCs, New York estimates that, between 2007 and 2020, it will reduce VOC emissions by 20.8% (from 484,440 tons in 2007 down to 368,784 tons in 2020).

New York further cited preliminary screening modeling performed for the Ozone Transport Commission (OTC) Modeling Committee that assumed a 48–68% decrease in NO_X emissions and a 30% reduction in VOC emissions in New York by 2020. The modeling showed that the only monitors "predicted" to be nonattainment (outside the New York metropolitan nonattainment area) were located in the Philadelphia metropolitan area. New York asserted that the Philadelphia monitors would be most significantly affected by emissions from within Pennsylvania and other upwind states. New York indicated that they used the Community Multi-scale Air Quality (CMAQ) and the California Photochemical Grid (CALGRID) models for their analysis.

New York also noted that its participation in the NO_X trading programs promulgated in EPA's Clean Air Interstate Rule (CAIR) addressed interstate transport requirements with respect to the 1997 ozone NAAQS. Although the State acknowledges that CAIR was remanded by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) in *North Carolina* v. *EPA*, 531 F.3d 896 (2008), the State indicated that it could rely on CAIR emission reductions to address interstate transport requirements for the 2008 ozone NAAQS because EPA had not yet (at the time of the submittal) developed a valid replacement rule. New York notes that EPA's Cross State Air Pollution Rule (CSAPR),[1] which EPA intended to replace CAIR, was vacated by the D.C. Circuit in August 2012, and that court instructed EPA to continue implementation of CAIR until the EPA promulgates a valid replacement.[2] New York notes that CAIR imposed an effective emissions rate of 0.094 lbs NO_X/mmBTU on New York sources. New York also compares its 2011 ozone season emission NO_X rates with NO_X rates achieved in other states, noting that New York electric generating units (EGUs) operated at an actual NO_X rate of 0.088 lbs NO_X/mmBTU. For these reasons, New York concluded that it has satisfied its obligations pursuant to section 110(a)(2)(D)(i)(I) with respect to the 2008 ozone NAAQS.

Finally, New York's SIP submission acknowledges that the state has contributed to downwind nonattainment and maintenance problems in New Jersey, Connecticut, Maryland, Massachusetts, Pennsylvania, Rhode Island, Virginia, and the District of Columbia, citing contribution analysis conducted when the EPA promulgated CSAPR. New York contends that because it shares nonattainment areas with New Jersey and Connecticut, and because the other states to which it has been linked are members of the Ozone Transport Commission, the state will address its obligations with respect to its contribution to nonattainment and interference with maintenance of the NAAQS in these states through the other statutory processes.

Although New York's analysis claims that there will be substantial emission reductions from existing programs from 2007 to 2020, New York admits that those reductions are based on preliminary estimates that have not been updated since New York's March 2013 submission. Nor has the state demonstrated that the emission rates at which EGUs in the state operated are the result of enforceable emission limits or other mandatory programs such that the emission rates will not increase. Moreover, while the State asserts that it will achieve a 46.6% NO_X reduction, and 20.8% VOC reduction during that time period, New York's modeling used higher levels of assumed reductions, assuming 48% NO_X reductions and 30% VOC reductions without demonstrating how it will achieve those higher levels of emissions reductions. Even assuming these projected emissions reductions were reliable, New York's modeling shows "predicted" nonattainment in

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[1] 76 FR 48208 (August 8, 2011).

[2] CSAPR was promulgated by EPA to help states reduce air pollution and attain and maintain CAA standards, including the 1997 ozone NAAQS and the 1997 and 2006 $PM_{2.5}$ NAAQS. On August 21, 2012, the D.C. Circuit vacated CASPR. *See EME Homer City Generation, L.P.* v. *EPA*, 696 F.3d 7, 38 (D.C. Circuit 2012). The Court ordered EPA to continue administering CAIR pending the promulgation of a valid replacement for CSAPR. *Id.* at 60.

Connecticut, New Jersey, and Pennsylvania. New York does not adequately explain how it concludes that New York emissions do not significantly contribute to these predicted exceedances. The fact that the State might have certain planning obligations with respect to areas in these states under other statutory provisions does not absolve the State of its obligation to address the planning requirements of section 110(a)(2)(D)(i)(I).

By only evaluating areas with predicted nonattainment in 2020, New York has also failed to address the State's potential interference with maintenance of the 2008 ozone NAAQS in downwind states. In remanding CAIR to the EPA in the *North Carolina* decision, the D.C. Circuit explained that the regulating authority must give the "interfere with maintenance" clause of section 110(a)(2)(D)(i)(I) "independent significance" by evaluating the impact of upwind state emissions on downwind areas that, while currently in attainment, are at risk of future nonattainment, considering historic variability. 531 F.3d at 910–911. New York's analysis does not give the "interfere with maintenance" clause of section 110(a)(2)(D)(i)(I) independent significance because its analysis did not attempt to evaluate the potential impact of New York emissions on areas that are currently measuring clean data, but that may have issues maintaining that air quality.

Furthermore, the 2020 projection year New York chose for its modeling and by which the State asserts it will achieve substantial NO_X reductions is two years later than the moderate area attainment date for the 2008 ozone NAAQS, which is July 11, 2018. Among other things, the court's decision in *North Carolina*, clarified that, to the extent possible, upwind emissions reductions necessary to address the interstate transport of air pollution should be aligned with the attainment dates for downwind nonattainment areas. 531 F.3d at 912. New York has not demonstrated either that the State's SIP is adequate to address interstate transport by the downwind attainment date for the 2008 ozone NAAQS or that emissions reductions necessary to address interstate transport are not practically feasible until 2020.

Among the emissions reductions cited by New York in its SIP, the State cites its participation in CAIR as a control measure that results in control of NO_X emissions within the State. New York notes that under CAIR, New York EGUs were subject to both the ozone season NO_X emissions trading program and the annual NO_X emissions trading program. The CAIR ozone season NO_X emissions trading program was intended to address interstate transport of air pollution for the 1997 ozone NAAQS. The CAIR annual NO_X emissions trading program, along with the annual sulfur dioxide (SO_2) trading program, was intended to address interstate transport of air pollution for the 1997 fine particulate matter ($PM_{2.5}$) NAAQS.

Although New York correctly notes that the *North Carolina* decision kept CAIR in place temporarily while EPA developed a replacement, and that the D.C. Circuit later issued a decision vacating that replacement, CSAPR, and requiring continued implementation of CAIR, the EPA does not agree that it is appropriate to rely on CAIR for purposes of addressing interstate transport with respect to the 2008 ozone NAAQS. First, EPA designed CAIR to address the 1997 ozone NAAQS, but not the more stringent 2008 ozone standard at issue here. It is not sufficient to merely cite evidence of compliance with older programs such as CAIR or measures implemented for prior ozone NAAQS as a means for satisfying interstate transport obligations for the 2008 ozone NAAQS.

More importantly, in *North Carolina*, the D.C. Circuit held that CAIR was "fundamentally flawed," 531 F.3d at 929, in part because CAIR did not satisfy the statutory requirement to "achieve something measurable towards the goal of prohibiting sources 'within the State' from contributing to nonattainment or interfering with maintenance in 'any other State.'" *Id.* at 908. Accordingly, the D.C. Circuit held in *EME Homer City Generation, L.P.* v. *EPA*, "when our decision in *North Carolina* deemed CAIR to be an invalid effort to implement the requirements of the good neighbor provision, that ruling meant that the initial approval of the CAIR SIPs was in error at the time it was done." 795 F.3d 118, 133 (2015). For these reasons, the EPA cannot now approve an interstate transport SIP addressing any NAAQS based on the state's participation in CAIR.

Regardless of CAIR's infirmities, the rule is no longer being implemented. Subsequent to New York's submission of its SIP, on April 29, 2014, the U.S. Supreme Court reversed that D.C. Circuit decision vacating CSAPR and remanded the case to the D.C. Circuit for further proceedings. *EPA* v. *EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). On October 23, 2014, the D.C. Circuit granted our motion to lift the judicial stay on CSAPR and delay compliance deadlines by three years. *EME Homer City Generation, L.P.* v. *EPA*, No. 11–1302 (D.C. Cir. Oct. 23, 2014), Order at 3. Consistent with the Court's order we issued an interim final rule amending CSAPR so that compliance could begin in an orderly manner on January 1, 2015 (79 FR 71663, December 3, 2014), replacing CAIR. On July 28, 2015, the D.C. Circuit issued its decision on the issues raised on remand from the Supreme Court. The court denied all of petitioners' facial challenges to CSAPR, but remanded several emissions budgets to the EPA for reconsideration. *EME Homer City Generation, L.P* v. *EPA*, 795 F.3d 118 (D.C. Cir. 2015). A final rule making the revised CSAPR implementation schedule permanent was issued on March 14, 2016. 81 FR 13275. Accordingly, CAIR implementation ended in 2014 and CSAPR implementation began in 2015. States and the EPA are no longer implementing the CAIR trading programs. Thus, it is no longer appropriate for states to rely on the emissions reductions achieved by compliance with CAIR to satisfy emission reduction obligations.

EPA has recently shared technical information with states to facilitate their efforts to address interstate transport requirements for the 2008 ozone NAAQS. EPA developed this technical information following the same approach used to evaluate interstate contribution in CSAPR in order to support the recently proposed Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS, 80 FR 75706 (Dec. 3, 2015) ("CSAPR Update Rule"). In CSAPR, EPA used detailed air quality analyses to determine whether an eastern state's contribution to downwind air quality problems was at or above specific thresholds. If a state's contribution did not exceed the specified air quality screening threshold, the state was not considered "linked" to identified downwind nonattainment and maintenance receptors and was therefore not considered to significantly contribute or interfere with maintenance of the standard in those downwind areas. If a state exceeded that threshold, the state's emissions were further evaluated, taking into account both air quality and cost considerations, to determine what, if any, emissions reductions might be necessary. For the reasons stated below, we believe it is appropriate to use the same approach we used in CSAPR to establish an air quality screening threshold for the evaluation of interstate transport requirements for the 2008 ozone standard.

In CSAPR, EPA proposed an air quality screening threshold of one percent of the applicable NAAQS and requested comment on whether one percent was appropriate. EPA evaluated the comments received and ultimately determined that one percent was an appropriately low threshold because there were important, even if relatively small, contributions to identified nonattainment and maintenance receptors from multiple upwind states. In response to commenters who advocated a higher or lower threshold than one percent, EPA compiled the contribution modeling results for CSAPR to analyze the impact of different possible thresholds for the eastern United States. EPA's analysis showed that the one-percent threshold captures a high percentage of the total pollution transport affecting downwind states, while the use of higher thresholds would exclude increasingly larger percentages of total transport. For example, at a five percent threshold, the majority of interstate pollution transport affecting downwind receptors would be excluded. In addition, EPA determined that it was important to use a relatively lower one-percent threshold because there are adverse health impacts associated with ambient ozone even at low levels. EPA also determined that a lower threshold such as 0.5 percent would result in relatively modest increases in the overall percentages of fine particulate matter and ozone pollution transport captured relative to the amounts captured at the one-percent level. EPA determined that a "0.5 percent threshold could lead to emission reduction responsibilities in additional states that individually have a very small impact on those receptors—an indicator that emission controls in those states are likely to have a smaller air quality impact at the downwind receptor. We are not convinced that selecting a threshold below one percent is necessary or desirable."

In the final CSAPR, EPA determined that one percent was a reasonable choice considering the combined downwind impact of multiple upwind states in the eastern United States, the health effects of low levels of fine particulate matter and ozone pollution, and EPA's previous use of a one-percent threshold in CAIR. EPA used a single "bright line" air quality threshold equal to one percent of the 1997 8-hour ozone standard, or 0.08 ppm. The projected contribution from each state was averaged over multiple days with projected high modeled ozone, and then compared to the one-percent threshold. We concluded that this approach for setting and applying the air quality threshold for ozone was appropriate because it provided a robust metric, was consistent with the approach for fine particulate matter used in CSAPR, and because it took into account, and would be applicable to, any future ozone standards below 0.08 ppm. EPA has subsequently proposed to use the same threshold for purposes of evaluating interstate transport with respect to the 2008 ozone standard in the CSAPR Update Rule.

On August 4, 2015, EPA issued a Notice of Data Availability (NODA) containing air quality modeling data that applies the CSAPR approach to contribution projections for the year 2017 for the 2008 8-hour ozone NAAQS.[3] The modeling data released in this NODA was also used to support the proposed CSAPR Update Rule. The moderate area attainment date for the 2008 ozone standard is July 11, 2018. In order to demonstrate attainment by this attainment deadline, states will use 2015 through 2017 ambient ozone data. Therefore, EPA proposed that 2017 is an appropriate future year to model for the purpose of examining interstate transport for the 2008 ozone NAAQS. EPA used photochemical air quality modeling to project ozone concentrations at air quality monitoring sites to 2017 and estimated state-by-state ozone contributions to those 2017 concentrations. This modeling used the Comprehensive Air Quality Model with Extensions (CAMx version 6.11) to model the 2011 base year and the 2017 future base case emissions scenarios to identify projected nonattainment and maintenance sites with respect to the 2008 ozone NAAQS in 2017. EPA used nationwide state-level ozone source apportionment modeling (CAMx Ozone Source Apportionment Technology/Anthropogenic Precursor Culpability Analysis technique) to quantify the contribution of 2017 base case NO_X and VOC emissions from all sources in each state to the 2017 projected receptors. The air quality model runs were performed for a modeling domain that covers the 48 contiguous United States and adjacent portions of Canada and Mexico. The NODA and the supporting technical support documents have been included in the docket for this SIP action. The modeling data released in the NODA on August 4, 2015 and the CSAPR Update are the most up-to-date information EPA has developed to inform our analysis of upwind state linkages to downwind air quality problems. As discussed in the CSAPR Update proposal for the 2008 ozone NAAQS, the air quality modeling (1) identified locations in the U.S. where EPA expects nonattainment or maintenance problems in 2017 for the 2008 ozone NAAQS (*i.e.*, nonattainment or maintenance receptors), and (2) quantified the projected contributions of emissions from upwind states to downwind ozone concentrations at those receptors in 2017 (80 FR 75706, 75720–30, December 3, 2015). Consistent with CSAPR, EPA proposed to use a threshold of 1 percent of the 2008 ozone NAAQS (0.75 parts per billion) to identify linkages between upwind states and downwind nonattainment or maintenance receptors. EPA proposed that eastern states with contributions to a specific receptor that meet or exceed this screening threshold are considered "linked" to that receptor, and were analyzed further to quantify available emissions reductions necessary to address interstate transport to these receptors.

The results of EPA's air quality modeling with respect to New York is summarized in Table 1 below.[4] That modeling indicates that emissions from New York are linked to both nonattainment and maintenance receptors in downwind states.

TABLE 1—CSAPR UPDATE PROPOSAL CONTRIBUTIONS TO DOWNWIND NONATTAINMENT AND MAINTENANCE AREAS

State	Largest contribution to nonattainment	Largest contribution to maintenance	Downwind nonattainment receptors located in states	Downwind maintenance receptors located in states
New York	16.96 ppb	17.21 ppb	Connecticut	Connecticut and New Jersey.

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[3] Notice of Availability of the Environmental Protection Agency's Updated Ozone Transport Modeling Data for the 2008 Ozone National Ambient Air Quality Standard (NAAQS), 80 FR 46271 (August 4, 2015).

[4] These data also appear in Table V.D–1 of the CSAPR Update proposal. See 80 FR at 75727.

As noted above, New York provided information documenting significant emission reductions that have been made throughout the state beginning in 1995 and additional emission reductions expected to occur by 2020. These controls have resulted in significant reductions in NO_X emissions in New York and undoubtedly have reduced the amount of transported pollution to other states. However, many of the emission reductions achieved through these measures were accounted for in the EPA's modeling baseline of 2011 used to evaluate interstate transport with respect to the 2008 ozone NAAQS, and further accounted for in EPA's modeling projections to 2017. Accordingly, the most recent technical analysis available to the EPA contradicts New York's conclusion that the state's SIP contains adequate provisions to address interstate transport as to the 2008 ozone standard. Furthermore, New York did not demonstrate how these rules and data developed for different purposes provide sufficient controls on emissions to address interstate transport for the 2008 ozone NAAQS. Despite the substantial emissions reductions achieved by New York, we have subsequently published information and proposed an update to CSAPR that addresses the 2008 ozone NAAQS that demonstrates New York emissions still have an impact on other states.

EPA is proposing to disapprove the 2008 ozone New York Infrastructure SIP submission for both the prong 1 and prong 2 requirements of CAA section 110(a)(2)(D)(i)(I). As explained above, the SIP submission does not provide an adequate technical analysis demonstrating that the state's SIP contains adequate provisions prohibiting emissions that will significantly contribute to nonattainment or interfere with the 2008 ozone NAAQS in any other state. Moreover, EPA's most recent modeling indicates that emissions from New York are projected to significantly contribute to downwind nonattainment and maintenance receptors in other states.[5]

Section 110(a)(2)(D)(i)(II)—Prong 4

In this action, EPA is proposing that New York satisfies the 110(a)(2)(D)(i)(II) requirement for visibility (or prong 4). New York addresses visibility protection requirements for the 2008 ozone NAAQS through its Regional Haze SIP. EPA approved New York's Regional Haze SIP submittal (August 28, 2012, 77 FR 51915) as part of New York's SIP. The regional haze rule requires that a state participating in a regional planning process include all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process. Thus, New York's approved Regional Haze SIP ensures that emissions from sources within the State are not interfering with measures to protect visibility in other states.

EPA's notes that New York's Regional Haze SIP was supplemented with a FIP by EPA for three units at two sources where EPA disapproved the Best Available Retrofit Technology (BART) determinations for those units. In our August 2012 rulemaking, EPA promulgated a FIP to address our disapproval of BART determinations for Roseton Generating Station Units 1 and 2 and Danskammer Generating Station's Unit 4. 77 FR 51915 (Aug. 28, 2012). The additional emission reductions under the FIP were, however, not necessary to demonstrate that New York met its share of the emissions reductions sufficient to meet reasonable progress goals (found at 40 CFR 51.308 (d)(1)) at Class I areas affected by New York's emissions. EPA fully approved that aspect of New York's Regional Haze SIP. EPA's analysis demonstrating that New York had met its share of its regional emissions reductions can be found in the Regional Haze Technical Support document, which is available in the docket for the rule.

Since EPA's action on New York's Regional Haze Plan, the Title V permits for Danskammer and Roseton have been updated by New York to incorporate the FIP limits established by EPA. The Title V permit for Danskammer was submitted to EPA as a SIP revision on August 20, 2015.

III. What action is EPA taking?

EPA is proposing to disapprove the portion of the April 4, 2013 New York SIP submittal pertaining to the requirements of CAA section 110(a)(2)(D)(i)(I) regarding interstate transport of air pollution that will significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS (*i.e.*, CAA section 110 (a)(2)(D)(i)(I) (prongs 1 and 2)) in other states. Disapproval will establish a 2-year deadline for EPA to promulgate a FIP to address New York's CAA interstate transport requirements pertaining to significant contribution to nonattainment and interference with maintenance unless the State submits, and EPA approves a SIP that meets these requirements (per section 110(c)(1) of the CAA). Disapproval does not start a mandatory sanctions clock pursuant to CAA section 179 because this action does not pertain to either a part D plan for nonattainment areas required under CAA section 110(a)(2)(I) or a SIP call pursuant to CAA section 110(k)(5).

EPA is proposing approval of the portion of the April 4, 2013 New York SIP submittal pertaining to the CAA section 110(a)(2)(D)(i)(II) requirement for visibility (or prong 4).

EPA is soliciting public comments on the issues discussed in this proposal. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by following the directions in the **ADDRESSES** section of this **Federal Register**.

IV. Statutory and Executive Order Reviews

a. Executive Order 12866, Regulatory Planning and Review

This action is not a "significant regulatory action" under the terms of Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the E.O.

b. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because this proposed partial approval and partial disapproval of SIP revisions under CAA section 110 will not in-and-of itself create any new information collection burdens but simply proposes to approve certain State requirements, and to disapprove certain other State requirements, for inclusion into the SIP. Burden is defined at 5 CFR 1320.3(b).

c. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business

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[5] New York and others interested parties have provided comments on both the NODA and proposed CSAPR Update Rule. See Docket No. EPA–HQ–OAR–2015–0500 at *http://www.regulations.gov.* We will consider these comments in final rulemaking on the CSAPR Update Rule. Even absent this data, New York's SIP failed to adequately address the requirements of CAA section 110(a)(2)(D)(i)(I) with respect to the 2008 ozone NAAQS.

Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule, we certify that this proposed action will not have a significant impact on a substantial number of small entities. This proposed rule does not impose any requirements or create impacts on small entities. This proposed partial SIP approval and partial SIP disapproval under CAA section 110 will not in-and-of itself create any new requirements but simply proposes to approve certain State requirements, and to disapprove certain other State requirements, for inclusion into the SIP. Accordingly, it affords no opportunity for EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. Therefore, this action will not have a significant economic impact on a substantial number of small entities.

We continue to be interested in the potential impacts of this proposed rule on small entities and welcome comments on issues related to such impacts.

d. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. EPA has determined that the proposed partial approval and partial disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This action proposes to approve certain pre-existing requirements, and to disapprove certain other pre-existing requirements, under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this proposed action.

e. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely proposes to approve certain state requirements, and to disapprove certain other State requirements, for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, Executive Order 13132 does not apply to this action.

f. Executive Order 13175, Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP on which EPA is proposing action would not apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this proposed action.

g. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This proposed action is not subject to Executive Order 13045 because it is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997). This proposed partial approval and partial disapproval under CAA section 110 will not in-and-of itself create any new regulations but simply proposes to approve certain state requirements, and to disapprove certain other state requirements, for inclusion into the SIP.

h. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

i. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

EPA believes that this proposed action is not subject to requirements of Section 12(d) of NTTAA because application of those requirements would be inconsistent with the Clean Air Act.

j. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this proposed action. In reviewing SIP submissions, EPA's role is to approve or disapprove state choices, based on the criteria of the Clean Air Act. Accordingly, this action merely proposes to partially approve and partially disapprove certain state requirements for inclusion into the SIP under section 110(a) of the CAA and will not in-and-of itself create any new requirements. Accordingly, it does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Nitrogen dioxide, Ozone, Sulfur dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 13, 2016.

Judith A. Enck,

Regional Administrator, Region 2.

[FR Doc. 2016–14523 Filed 6–20–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 28

[Docket No. USCG–2003–16158]

RIN 1625–AA77

Commercial Fishing Industry Vessels

AGENCY: Coast Guard, DHS.

ACTION: Notice of withdrawal of advance notice of proposed rulemaking.

SUMMARY: The Coast Guard announces the withdrawal of this regulatory project, which involved possible amendments to Coast Guard regulations affecting uninspected United States commercial fishing, fish processing, and fish tender vessels. The possible amendments involved vessel stability and watertight integrity, risk awareness and minimization, personnel instruction and drill requirements, safety and survival equipment, and compliance documentation. Withdrawal of this regulatory project will allow the Coast Guard to focus on a new rulemaking project implementing 2010 and 2012 legislation that affects the commercial fishing industry.

DATES: The advance notice of proposed rulemaking on Commercial Fishing Industry Vessels, published on March 31, 2008, at 73 FR 16815, is withdrawn as of June 21, 2016.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Mr. Jack Kemerer, Chief, Fishing Vessel Safety Division (CG–CVC–3), Office of Vessel Activities (CG–CVC); telephone 202–372–1249, email *Jack.A.Kemerer@uscg.mil.*

SUPPLEMENTARY INFORMATION:

Discussion

This is one of two Coast Guard publications that appear in today's **Federal Register** and that address uninspected commercial fishing industry vessels (CFVs).

- This document, announcing the withdrawal of an older rulemaking project that we began prior to 2010.
- A notice of proposed rulemaking (NPRM) for a newer rulemaking project, implementing the 2010 and 2012 statutory mandates.

We opened this older project in 2002. Its purpose was to improve safety in the commercial fishing industry, which remains one of the most hazardous occupations in the United States. As we discussed in our March 31, 2008, advance notice of proposed rulemaking (ANPRM; 73 FR 16815),[1] although existing Coast Guard regulations had resulted in improved safety on CFVs, the improvements in safety had leveled off and we concluded that additional regulatory action was needed to achieve further fatality and vessel loss reductions. We further concluded that safety could be improved significantly through new regulations for vessel stability and watertight integrity, risk awareness and minimization, personnel instruction and drill requirements, safety and survival equipment, and compliance documentation.

Public comments on our withdrawal of the older project are welcome, but should be submitted to the docket for the newer project. In particular, we encourage comments on whether any of the regulatory ideas discussed in our March 31, 2008 ANPRM (73 FR 16815) should be the subject of future Coast Guard regulatory action. Please see Part I of the new NPRM's preamble for information on how to submit comments, and see Part VI of that preamble for a discussion of the comments we received on the ANPRM.

Legislation enacted in 2010 and 2012 has provided the Coast Guard with additional regulatory authority over CFVs. The new legislation appears in Title VI of the Coast Guard Authorization Act of 2010, Pubic Law 111–281, 124 Stat. 2959 and in sections 303 and 305 of the Coast Guard and Maritime Transportation Act of 2012, Public Law 112–213, 126 Stat. 1563–1534. The new legislation significantly changes the Coast Guard's regulatory authority over CFVs and mandates some safety provisions that were proposed in this older project. For example, the new legislation—

- Mandates new equipment requirements for many vessels, or extends existing requirements to wider vessel populations;
- Extends Coast Guard authority over Aleutian Trade fish tenders and CFVs that operate more than 3 nautical miles offshore or that carry more than 16 individuals onboard—the vessels regulated under 46 CFR part 28, subpart C;
- Requires the Coast Guard to conduct periodic mandatory dockside examinations of vessels regulated under subpart C;
- Requires new-built, smaller CFVs regulated under subpart C to meet recreational vessel safety standards;
- Requires CFVs regulated under subpart C to document maintenance, instruction, and drills;
- Requires new-built, larger, CFVs to meet loadline and vessel classification requirements, and phases in alternate safety compliance requirements for older, larger CFVs; and
- Expands the Coast Guard's authority to terminate a vessel's operation under unsafe conditions.

These requirements are discussed at greater length in the newer project's NPRM. We have decided to focus our regulatory attention on the effective implementation of the 2010 and 2012 legislation, and we therefore withdraw this older project. This notice is issued under the authority of 5 U.S.C. 552.

Dated: June 10, 2016.

Paul F. Zukunft,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 2016–14400 Filed 6–20–16; 8:45 am]

BILLING CODE 9110–04–P

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[1] The ANPRM public comment period originally closed on July 29, 2008, but was reopened until December 15, 2008 (see notice, 73 FR 46912, Aug. 12, 2008). Two public meetings were held in Seattle, WA, Nov. 21 and 22, 2008.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 10–90, 14–58, 14–259; FCC 16–64]

Connect America Fund, ETC Annual Reports and Certification, Rural Broadband Experiments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on several specific procedures that will apply in the Phase II auction. Pursuant to the Commission's existing rules for

competitive bidding for universal service support, "[d]etailed competitive bidding procedures shall be established by public notice prior to the commencement of competitive bidding. With this Further Notice, the Commission begins the process of seeking comment. The Commission seeks comment on three discrete sets of issues relating to the process for determining winning bidders: How to apply weights to the different levels of performance adopted in the Order above; measures to achieve the public interest objective of ensuring appropriate support for all of the states; and measures to achieve the public interest objective of expanding broadband on Tribal lands.

DATES: Comments are due on or before July 21, 2016 and reply comments are due on or before August 5, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit comments, identified by WC Docket No. 10–90, WC Docket No. 14–58 and WC Docket No. 14–259, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Alexander Minard, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in WC Docket Nos. 10–90, 14–58 and 14–259; FCC 16–64, adopted on May 25, 2016 and released on May 26, 2016. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th St. SW., Washington, DC 20554 or at the following Internet address: *http://transition.fcc.gov/Daily_Releases/Daily_Business/2016/db0526/FCC-16-64A1.pdf.* The Report and Order that was adopted concurrently with the FNPRM is published elsewhere in this issue of the **Federal Register**.

I. Introduction

1. Over the last several years, the Commission has engaged in a modernization of its universal service regime to support networks capable of providing voice and broadband, including developing a new forward-looking cost model to calculate the cost of providing service in rural and high-cost areas. In 2015, 10 price cap carriers accepted an offer of Phase II support calculated by a cost model in exchange for a state-level commitment to deploy and maintain voice and broadband service in the high-cost areas in their respective states.

2. In the Further Notice, the Commission begins the process of seeking comment on several specific procedures that will apply in the Phase II auction, including how to apply weights to the different levels of performance adopted in the concurrently adopted Order, measures to achieve the public interest objective of ensuring appropriate support for all of the states, and measures to achieve the public interest objective of expanding broadband on Tribal lands. The forthcoming *Auction Comment PN* will seek comment on other auction procedures that must be resolved in order to conduct the auction, such as the number of rounds during which bids may be submitted, package bidding, and what information will be disclosed to participants during the bidding process.

II. Further Notice of Proposed Rulemaking

3. Pursuant to the Commission's existing rules for competitive bidding for universal service support, "[d]etailed competitive bidding procedures shall be established by public notice prior to the commencement of competitive bidding." With this Further Notice, the Commission begins the process of seeking comment on several specific procedures that will apply in the Phase II auction. The Commission seeks comment on three discrete sets of issues relating to the process for determining winning bidders: (1) How to apply weights to the different levels of performance adopted in the concurrently adopted Order; (2) measures to achieve the public interest objective of ensuring appropriate support for all of the states; and (3) measures to achieve the public interest objective of expanding broadband on Tribal lands. The forthcoming *Auction Comment PN* will seek comment on other auction procedures that must be resolved in order to conduct the auction, such as the number of rounds during which bids may be submitted, package bidding, and what information will be disclosed to participants during the bidding process. The Commission also seeks comment on issues relating to interim deployment milestones for non-terrestrial providers or providers that have already deployed the infrastructure they intend to use to fulfill their Phase II obligations.

A. Comparing Bids of Differing Performance Levels

4. In the concurrently adopted Order, the Commission adopts four technology-neutral performance tiers with varying speed and usage allowances, and for each tier permit bidders to designate either low or high latency. The Commission also concludes that all bids will be considered simultaneously, so that bidders that propose to meet one set of performance standards will be directly competing against bidders that commit to meet other performance standards. To implement this framework, the Commission has decided to use weights to take into account the differing attributes of different types of service performance.

5. In light of the decisions reached in the concurrently adopted Order, the Commission now seeks to further develop the record on how bids should be weighted in order to achieve its overarching goal of providing households in the relevant high-cost areas with access to high quality broadband services, while making the most efficient use of finite universal service funds. The Commission recognizes that setting appropriate weights is of crucial importance to achieving this goal as well as having a successful Phase II auction. Thus, the Commission seeks comment on weights today in order to expedite its ability to adopt auction procedures regarding the comparison of bids.

6. In the concurrently adopted Order, the Commission concludes that it sees the value to consumers in rural markets of having access to service during the 10-year term of support that exceeds its baseline requirements. The Commission wants to ensure that rural America is not left behind, and the consumers in those areas benefit from innovation and advances in technology. All things considered, the Commission values higher speeds over lower speeds, higher usage allowances over lower usage allowances, and lower latency over higher latency. The Commission also sees the benefits to achieving its other

universal service objectives if a Phase II service provider will be able to provide broadband adequate to meet the needs of the entire community, including schools, libraries and rural health care providers.

7. The concurrently adopted Order concludes that the Commission will use the Connect America Cost Model (CAM) to establish reserve prices, and that bids will be scored relative to the reserve price for the areas subject to the bid, with lower bids selected first, taking into account the weights on which the Commission is seeking comment. Specifically, the Commission will divide the annual amount of support per location requested per bid by the model-based support amount per location to determine an initial cost-effectiveness score for a particular bid, *i.e.*, a numeral that represents the relationship of the bid to the reserve price set for the geographic area that is subject to the bid.

8. The Commission proposes procedures to assign a weight to each service tier as well as the high and low latency designations that would alter the initial cost-effectiveness score of each bid. As described below, the Commission proposes to adopt procedures for weights that would take into account the relative benefits to consumers of the various service tiers. The Commission seeks comment on these proposals and any other alternatives. Are there other ways to compare bids, given the Commission's stated goals for this auction?

9. The Commission thus proposes to establish weights for specific types of bids that represent the relative benefits of service that provides higher speeds, higher usage allowances, and/or lower latency over service that meets lower requirements for participation in the Phase II auction. Under such a scheme, a bid closer to the reserve price but for higher performance levels could be selected based on its "weighted score"—its score that will be compared to other bids once weights are applied to its "cost-effective score"—even if another bidder seeks less actual support to provide the minimum level of service.

10. The Commission seeks comment on what specific value of weights should be applied to each of the four tiers of service. The Commission seeks comment on whether weights should be set relative to the baseline service tier, or relative to the minimum requirements for this auction. The Commission also seeks comment on what specific value of weights should be applied to low and high latency designations for each of the four tiers. In particular, how should those tier weights be adjusted in light of low and high latency designations? Should a weight for latency be applied in the same fashion across all of the speed/usage tiers? Ultimately, the Commission seeks to establish weights that provide rural consumers with the highest quality service while making efficient use of universal service funds. In designing weights to achieve this goal, the Commission does not predetermine which bidder will win if competing head to head with another bidder for a given area. The Commission instead intends to provide a means for numerically comparing the bids received based on the value to rural consumers of having access to different service levels using the finite budget of this auction.

11. The Commission seeks comment on whether, and, if so, how, the Commission should consider subscribership data for broadband services of varying performance levels and expected costs per subscribed location in establishing weights for the Phase II auction. For example, the Commission seeks comment on potentially using the Commission's Form 477 data to inform its decision regarding weights in the Phase II auction. Should national market share data, based on the Commission's Form 477 data, inform the Commission's setting of weights?

12. The Commission recognizes, however, that these national market shares are a function of both availability and consumer preferences for certain services, and that more recent data may show different trends. For that reason, national shares would not necessarily reflect subscribership of these services where they are actually the only broadband choice deployed. Of course, the eligible areas in the Phase II auction are, by definition, those areas lacking 10 Mbps/1 Mbps service. The Commission seeks comment on whether, and, if so, how, to account for both variation in deployment across geographic areas and consumer tastes in setting procedures for weights used to compare bids. For example, could analysis be performed using FCC Form 477 subscription and deployment data or other data sources to predict the expected subscribership rate for a particular performance level offering of speed, usage, and latency in a given geographic area if that were the only offering available to every household? How could such analysis inform the weights adopted for the Phase II auction? The Commission is also guided by the statutory goal of ensuring consumers in rural and high-cost areas have access to services "that are reasonably comparable to those services provided in urban areas." How should this objective inform the Commission's weights? Could the Commission analyze its Form 477 data on broadband deployment and subscription in urban areas in setting weights for different performance tiers? Are there other objective metrics or data sources the Commission can rely on to inform the specific numerical weights it will apply to bids?

13. A number of parties have submitted various proposals for how to weigh bids with differing performance obligations. For example, WISPA proposed that "[b]idders would begin the auction process with 100 points" and "could gain additional points, or bidding credits" by exceeding baseline performance criteria. Hughes suggested specific weights for different services levels, with no weight applied to a 10/1 speed tier, and higher weights for faster speeds and usage that exceeded baseline requirements. It proposed a 25 percent weight for low-latency offerings. The Utilities Technology Council and National Rural Electric Cooperative Association proposed weights that would translate into a weight of 50 for the gigabit service tier, a weight of 35 for the above-baseline service tier, no weight for the baseline service tier, and a negative 25 weight for the minimum service tier, as well as a negative 25 weight for high-latency offerings. The Commission seeks comment on these proposals in light of the specific performance obligation tiers and latency framework the Commission adopts in the concurrently adopted Order and its decision to use weights to adjust the cost-effectiveness score of individual bids. The Commission also seeks comment on any alternative weighting proposals.

14. The Commission does not intend to adopt auction procedures that would apply an additional weight to the bid depending on the percentage of available funds bid in a census block, as suggested by one commenter. The Commission already has decided that bids will be compared in the first instance based on the ratio of the bid amount divided by the reserve price. The weighting system that the Commission seeks comment on today would effectively adjust that bid price for purposes of comparison.

B. Access to Appropriate Phase II Levels for All States

15. In this Further Notice, the Commission next seeks comment on measures to achieve the public interest objective of ensuring appropriate support for all of the states. In the

concurrently adopted Order, the Commission recognizes the concerns raised by those states where significant amounts of Phase II funding were declined (declined states). Specifically, the Commission recognizes that it is making available $2.15 billion in support in the Phase II auction, of which approximately $1.05 billion was originally offered to particular states as part of the Phase II state-wide election process. And the Commission recognizes that where incumbent carriers declined the offer of support does not diminish its universal service obligation to connect consumers in areas that would have been reached had the offer been accepted and to provide sufficient universal service funds to do so. The Commission seeks to design a Phase II auction that achieves an efficient and equitable distribution across the states for Phase II Connect America funding, recognizing the relative characteristics of individual states. The Commission seeks comment generally on how to address these concerns in line with its universal service objectives. The Commission seeks comment on the ideas set forth below and also invite commenters to identify any additional or alternative measures it could take to address these concerns.

16. To begin with, the Commission recognizes and applauds state initiatives to advance broadband deployment and access to unserved and underserved consumers. The Commission seeks further comment on how best to coordinate with such initiatives to achieve its universal service goals.

17. With respect to equitable distribution among states, the Commission first seeks comment on establishing weights that would provide a preference to such declined states or other auction design procedures for the comparison of bids to ensure equitable funding to such states. The Commission also seeks comment on adopting weights to provide a preference for those states that have made a meaningful commitment to advance broadband, such as the state initiatives mentioned above. If the Commission were to adopt such weights for either purpose, at what value should such weights be set? Are there other auction procedures that could be used that would be simple to administer and help achieve the Commission's objectives?

18. Second, the Commission seeks comment on creating a 'backstop' of funds that could be used, if necessary, to ensure an equitable distribution of funding to declined states. For example, the Commission could conduct the Phase II auction initially with $1.75 billion of the total $2.15 billion Phase II budget. If a state falls short of winning aggregate bids that total to a set percentage of the amount previously declined in the state by the incumbent price cap carrier, the remaining $400 million could be allocated to the remaining next-in-line bidders in just those states, on a lowest bid score basis. If the Commission were to adopt such an approach, what percentage of the declined amount should be used as the trigger amount? Should the Commission adopt an 80 percent trigger? Or a higher or lower trigger? Alternatively, should next-in-line bidders in those specific states be selected on a lowest cost basis?

19. Third, the Commission seeks comment on viewing the problem of ensuring adequate service to all rural Americans holistically, so any state allocated less funding in the Phase II auction will almost certainly need more support from the Remote Areas Fund. The Commission could, for example, reserve funding in the Remote Areas Fund in direct proportion to any shortfall between the funding declined in the statewide election process and the amount allocated in the Phase II auction. A holistic approach may balance the concerns for efficiency in the Phase II auction with the Commission's concern for ensuring that every state's rural residents are given the opportunity to access broadband at reasonably comparable speeds to urban areas. If the Commission adopted this approach, should it guarantees all the funding declined for a state is allocated there between the Phase II auction and the Remote Areas Fund, or only some proportion? If the latter, how should the Commission choose that amount?

20. Fourth, the Commission seeks comment on setting a ceiling for the aggregate total of winning bids in any given state to prevent a substantial redistribution of Phase II funds among states. For example, the Commission could adopt auction procedures that would help ensure that winning bids in a given state do not exceed more than 125 percent of the amount declined by the incumbent price cap carriers in that state. If the Commission were to adopt such a ceiling, what would be the right level for such a ceiling?

21. Finally, the Commission seeks comment on adopting alternative auction procedures designed to help ensure that declined states receive all or substantially all of the funds declined by the incumbent carrier. Such procedures would help ensure that, following the Phase II auction, declined states would be in the same or substantially the same position they would have been in had the incumbent carrier accepted support. For example, the Commission could establish procedures to prioritize selection of bids for declined states until a specified floor is met, assuming sufficient bidding in the declined state. If the Commission were to adopt such a floor, should the floor be set at 100 percent of the declined amount? Or should it be set at 95 or 90 percent or some other percentage of declined support?

22. The Commission seeks comment on advantages and disadvantages of each of these alternatives as well as any other alternatives commenters suggest. Commenters should explain how each of the approaches they advocate would affect the efficiency of the Phase II auction. Which mechanism or combination of mechanisms might best advance the Commission's objective of ensuring that all states have access to appropriate levels of Phase II funding overall? In considering mechanisms to ensure appropriate support to all of the states, should the Commission focus on the amount of funding that was declined by the incumbent carriers, the number of locations that would have been served had the incumbent carrier accepted the Phase II offer of support, or the overall amount of Phase II support provided to the state?

C. Access to Service on Tribal Lands

23. The Commission also seeks to further develop the record on how to advance its policy objective of extending broadband to unserved Tribal lands through the Phase II auction. The Commission recognizes the historic challenges of serving Tribal lands and the low level of broadband service deployment on Tribal lands. Here, the Commission seeks comment on several possible auction procedures that could advance its goal of expanding access to broadband on Tribal lands.

24. In prior universal service competitive bidding processes, the Commission adopted a Tribal bidding credit. In Mobility Fund Phase I and Tribal Mobility Fund Phase I, Tribal bidders could apply a 25 percent credit to bids. In the rural broadband experiments, bids proposing to serve only Tribal lands could apply a 25 percent credit.

25. The Commission seeks comment on adopting such a Tribal-specific weight in the Phase II auction and how such a weight should be designed to further its objective of advancing broadband deployment on Tribal lands. Should the Commission adopt a weight that would lower the effective score of Tribal entities that bid (thereby making their bids more like to succeed)? Or should the Commission adopts a weight

that would apply to any bid seeking to serve Tribal lands? If a bid is seeking to serve a combination of Tribal lands and non-Tribal lands, should the Commission applies a Tribal weight? If so, how would that weight be applied across the bid so as not to benefit bids that seek to serve only a *de minimis* number of Tribal locations? To the extent that a weight is applied to a bid that contains both Tribal and non-Tribal census blocks, should the weight be apportioned by number of locations in the relevant areas or by the geography (square miles) of the relevant areas? Is there some other procedure for Tribal weights that would be simple to administer?

26. One goal of a Tribal-specific weight could be to make it more likely a bidder proposing to serve Tribal lands would be selected by lowering its bid score. Another goal could be to make it more likely that the Commission has bidders willing to bid on Tribal lands. A score-lowering weight alone may not achieve the goal of incentivizing providers to bid on Tribal lands. As the Commission has noted in the 2011 *USF/ICC Transformation Order,* 76 FR 73830, November 29, 2011, greater financial support may be necessary in order to ensure the availability of broadband on Tribal lands. The Commission therefore also seeks comment on any alternative auction procedures that could be adopted to further its goals of advancing deployment on Tribal lands.

D. Limited Adjustments to Interim Deployment Milestones

27. Finally, as noted in the concurrently adopted Order, the interim deployment milestones adopted above may not be appropriate for non-terrestrial providers or other providers that have already deployed the infrastructure they intend to use to fulfill their Phase II obligations. Here, the Commission seeks comment on how to address this issue. Some parties have made proposals in the record to address this issue. For instance, a satellite provider may already have launched the satellite on which it will rely to provide the broadband service and need only to deploy customer premises equipment. In that circumstance, the interim deployment milestones would provide more time than needed to begin offering service to consumers. The Commission seeks comment on the proposal in the record and any alternative ways to address the issue. How should interim deployment milestones be modified, if at all, for providers that have already deployed significant amounts of infrastructure necessary to meet the service commitments? What specific milestones should the Commission adopt in the alternative so as to be able to monitor compliance with deployment obligations? As the Commission evaluates such alternatives, it remains mindful of its goals of promoting universal service efficiently while maintaining the financial integrity of the fund.

III. Procedural Matters

A. Paperwork Reduction Act Analysis

28. The FNPRM contains proposed new information collection requirements. The Commission as part of its continuing effort to reduce paperwork burdens, invites the general public and the OMB to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

B. Initial Regulatory Flexibility Analysis

29. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities from the policies and rules proposed in this Further Notice of Proposed Rulemaking (Further Notice). The Commission requests written public comment on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further Notice provided on the concurrently adopted Report and Order (Order). The Commission will send a copy of the Further Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the Further Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposed Rules

30. In the concurrently adopted Order, the Commission adopts public interest obligations for recipients of support awarded through the Phase II competitive bidding process that will be known in advance of the auction and that will continue for the duration of the term of support, recognizing that competitive bidding is likely to be more efficient if potential bidders know what their performance standards will be before bids are made. In particular, the Commission establishes four technology-neutral tiers of bids available for bidding with varying speed and usage allowances, all at reasonably comparable rates, and for each tier will differentiate between bids that would commit to either lower or higher latency. The concurrently adopted Order provides general guidance on auction design, with certain details to be determined by the Commission at a future date in the *Auction Procedures Public Notice,* after further opportunity for comment.

31. Separately, with the Further Notice, the Commission begins the process of seeking comment on several specific procedures that will apply to the Phase II auction. The Commission seeks comment on three discrete sets of issues relating to the process for determining winning bidders: (1) How to apply weights to the different levels of performance adopted in the concurrently adopted Order; (2) measures to achieve the public interest objective of ensuring appropriate support for all of the states; and (3) measures to achieve the public interest objective of expanding broadband on Tribal lands. The Commission also seeks comment on issues relating to interim deployment milestones for non-terrestrial providers or providers that have already deployed the infrastructure they intend to use to fulfill their Phase II obligations.

a. Comparing Bids of Differing Performance Levels

32. In the concurrently adopted Order, the Commission adopts four technology-neutral performance tiers with varying speed and usage allowances, and for each tier permit bidders to designate either low or high latency. The Commission also concludes that all bids will be considered simultaneously, so that bidders that propose to meet one set of performance standards will be directly competing against bidders that propose to meet other performance standards. To implement this framework, the Commission has decided to use weights to take into account the differing attributes of different types of service performance.

33. The Further Notice seeks comment on how bids should be weighted in order to achieve its overarching goal of providing households in the relevant high-cost areas with access to high quality broadband services, while making the most efficient use of limited universal service funds. The Commission

recognizes that setting appropriate weights is of crucial importance to achieving this goal and implementing a successful Phase II auction. Thus, the Commission seeks comment on weights in the Further Notice in order to expedite its ability to adopt auction procedures regarding the comparison of bids. A number of parties have submitted various proposals for how to weigh bids with differing performance obligations. In the Further Notice, the Commission seeks comment on these proposals and how it should consider them in light of the performance obligation tiers and latency framework it adopts in the concurrently adopted Order. The Commission also seeks comment on any alternative weighting proposals.

34. The Further Notice proposes to adopt procedures that would assign a weight to each service tier as well as the high and low latency designations that would alter the initial cost-effectiveness score of each bid. The Further Notice proposes to adopt procedures for weights that would take into account the relative benefits to consumers of higher speeds, higher usage allowances, and lower latency. The Commission seeks comment on these proposals and any other alternatives. The Further Notice also seeks comment on what specific value of weights should be applied to each tier of service, and whether any of the different service tiers should be valued equivalently. The Commission also seeks comment on whether weights should be set relative to the baseline service tier, relative to the minimum requirements for this auction, or other approaches. The Commission also seeks comment on potentially using the Commission's Form 477 data or other subscribership data including costs per subscriber location in setting weights.

b. Access to Appropriate Phase II Levels for All States

35. The Further Notice also seeks comment on measures to achieve the public interest objective of ensuring appropriate support for all of the states. In the concurrently adopted Order, the Commission recognizes the concerns raised by those states where significant amounts of Phase II funding were declined (declined states). The Commission seeks comment in the Further Notice generally on how to address these concerns in line with its universal service objectives.

36. The Commission first seeks comment in the Further Notice on establishing weights that would provide a preference to declined states or other auction design procedures for the comparison of bids to ensure equitable funding to such states. The Commission also seeks comment on adopting weights to provide a preference for those states that have made a meaningful commitment to advance broadband. The Commission seeks comment on creating a funding 'backstop' that could be used, if necessary, to ensure an equitable distribution of funding to declined states. The Commission also seeks comment on putting in place additional or subsequent measures to make up any shortfall from the declined amounts that remain following the Phase II auction. The Commission seeks comment on adopting an auction procedure that sets a ceiling for the aggregate total of winning bids in any given state to prevent a substantial redistribution of Phase II funds among states. If the Commission were to adopt such a ceiling, what would be the appropriate level? Finally, the Commission seeks comment on adopting auction procedures intended to ensure that declined states receive all or substantially all of the funds declined by the incumbent carrier.

c. Access to Service on Tribal Lands

37. In the Further Notice, the Commission acts to further develop the record on how to advance its policy objective of extending broadband to unserved Tribal lands. The Commission recognizes the historic challenges of serving Tribal lands and the low deployment of broadband service on Tribal lands. The Commission seeks comment on several auction procedures that could advance its goal of expanding access to broadband on Tribal lands.

38. The Commission seeks comment on adopting a Tribal-specific weight in the Phase II auction and how such a weighting should be designed to further its objective of advancing broadband deployment on Tribal lands. The Commission seeks comment on whether to provide a weight to the bids of all or a subset of entities bidding on Tribal lands and it seeks comment whether all or part of the area bid on must be Tribal lands for the bidder to receive a Tribal-specific weight. The Commission also seeks comment in the Further Notice on any alternative auction procedures that could be adopted to further its goals of advancing broadband deployment on Tribal lands.

d. Limited Adjustments to Interim Deployment Milestones

39. In the Further Notice, the Commission seeks comment on how to address interim deployment milestones for non-terrestrial providers or other providers that have already deployed the infrastructure they intend to use to fulfill their Phase II obligations. The Commission seeks comment on how interim deployment milestones should be modified, if at all, for providers that have already deployed significant amounts of infrastructure necessary to meet the service commitments and on what specific milestones should the Commission adopt in the alternative so as to be able to monitor compliance with deployment obligations.

2. Legal Basis

40. The legal basis for any action that may be taken pursuant to the Notice is contained in sections 1, 2, 4(i), 5, 10, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, 403, and 405 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i), 155, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, 403, 405, 1302, and sections 1.1, 1.3, 1.421, 1.427, and 1.429 of the Commission's rules, 47 CFR 1.1, 1.3, 1.421, 1.427, and 1.429.

3. Description and Estimate of the Number of Small Entities to Which the Rules Would Apply

41. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small-business concern" under the Small Business Act. A small-business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

a. Total Small Entities

42. The Commission's proposed action, if implemented, may, over time, affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three comprehensive, statutory small entity size standards. First, nationwide, there are a total of approximately 28.2 million small businesses, according to the SBA, which represents 99.7% of all businesses in the United States. In addition, a "small organization" is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its

field." Nationwide, as of 2007, there were approximately 1,621,215 small organizations. Finally, the term "small governmental jurisdiction" is defined generally as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand." Census Bureau data for 2011 indicate that there were 90,056 local governmental jurisdictions in the United States. The Commission estimates that, of this total, as many as 89,327 entities may qualify as "small governmental jurisdictions." Thus, the Commission estimates that most governmental jurisdictions are small.

b. Broadband Internet Access Service Providers

43. Any rules adopted pursuant to the Further Notice will apply to broadband Internet access service providers. The Economic Census places these firms, whose services might include Voice over Internet Protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider's own telecommunications facilities (*e.g.*, cable and DSL ISPs), or over client-supplied telecommunications connections (*e.g.*, dial-up ISPs). The former are within the category of Wired Telecommunications Carriers, which has an SBA small business size standard of 1,500 or fewer employees. These are also labeled "broadband." The latter are within the category of All Other Telecommunications, which has a size standard of annual receipts of $32.5 million or less. These are labeled non-broadband. According to Census Bureau data for 2007, there were 3,188 firms in the first category, total, that operated for the entire year. Of this total, 3144 firms had employment of 999 or fewer employees, and 44 firms had employment of 1,000 employees or more. For the second category, the data show that 2,383 firms operated for the entire year. Of those, 2,346 had annual receipts below $32.5 million per year. Consequently, the Commission estimates that the majority of broadband Internet access service provider firms are small entities.

44. The broadband Internet access service provider industry has changed since this definition was introduced in 2007. The data cited above may therefore include entities that no longer provide broadband Internet access service, and may exclude entities that now provide such service. To ensure that this IRFA describes the universe of small entities that the Commission's action might affect, the Commission discusses in turn several different types of entities that might be providing broadband Internet access service. The Commission notes that, although it has no specific information on the number of small entities that provide broadband Internet access service over unlicensed spectrum, it includes these entities in its Initial Regulatory Flexibility Analysis.

c. Wireline Providers

45. *Incumbent Local Exchange Carriers* (*Incumbent LECs*). Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent LEC services. The closest applicable size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers reported that they were incumbent LEC providers. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent LEC service are small businesses that may be affected by rules adopted pursuant to the Further Notice.

46. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Of the 72, seventy have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and other local service providers are small entities that may be affected by rules adopted pursuant to the Further Notice.

47. The Commission has included small incumbent LECs in this present RFA analysis. As noted above, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. The Commission has therefore included small incumbent LECs in this RFA analysis, although it emphasizes that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

48. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 359 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by rules adopted pursuant to the Further Notice.

49. *Operator Service Providers* (*OSPs*). Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 33 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 31 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by rules adopted pursuant to the Further Notice.

50. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a

business is small if it has 1,500 or fewer employees. According to Commission data, 193 carriers have reported that they are engaged in the provision of prepaid calling cards. Of these, an estimated all 193 have 1,500 or fewer employees and none have more than 1,500 employees. Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by rules adopted pursuant to the Further Notice.

51. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules adopted pursuant to the Further Notice.

52. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 857 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by rules adopted pursuant to the Further Notice.

53. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage. Of these, an estimated 279 have 1,500 or fewer employees and five have more than 1,500 employees. Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by the rules and policies adopted pursuant to the Further Notice.

54. *800 and 800-Like Service Subscribers.* Neither the Commission nor the SBA has developed a small business size standard specifically for 800 and 800-like service (toll free) subscribers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. The most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, 877, and 866 numbers in use. According to the Commission's data, as of September 2009, the number of 800 numbers assigned was 7,860,000; the number of 888 numbers assigned was 5,588,687; the number of 877 numbers assigned was 4,721,866; and the number of 866 numbers assigned was 7,867,736. The Commission does not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small businesses under the SBA size standard. Consequently, the Commission estimates that there are 7,860,000 or fewer small entity 800 subscribers; 5,588,687 or fewer small entity 888 subscribers; 4,721,866 or fewer small entity 877 subscribers; and 7,867,736 or fewer small entity 866 subscribers.

d. Wireless Providers—Fixed and Mobile

55. The broadband Internet access service provider category covered by this Further Notice may cover multiple wireless firms and categories of regulated wireless services. Thus, to the extent the wireless services listed below are used by wireless firms for broadband Internet access service, the proposed actions may have an impact on those small businesses as set forth above and further below. In addition, for those services subject to auctions, the Commission notes that, as a general matter, the number of winning bidders that claim to qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments and transfers or reportable eligibility events, unjust enrichment issues are implicated.

56. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For the category of Wireless Telecommunications Carriers (except Satellite), census data for 2007 show that there were 1,383 firms that operated for the entire year. Of this total, 1,368 firms had employment of 999 or fewer employees and 15 had employment of 1,000 employees or more. Since all firms with fewer than 1,500 employees are considered small, given the total employment in the sector, the Commission estimates that the vast majority of wireless firms are small.

57. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined "small business" for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a "very small business" as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions.

58. *218–219 MHz Service.* The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 594 Metropolitan Statistical Area (MSA) licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, the small business size standard was an entity that, together with its affiliates, has no more than a $6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than $2 million in annual profits each year for the previous two years. In the *218–219 MHz Report and Order and Memorandum Opinion and Order,* 64 FR 59656, November 3, 1999, the Commission established a small business size standard for a "small business" as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed $15 million for the preceding three years. A "very small business" is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not to exceed $3 million for the preceding three years. These size standards will be used in

future auctions of 218–219 MHz spectrum.

59. *2.3 GHz Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined "small business" for the wireless communications services ("WCS") auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a "very small business" as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions. The Commission auctioned geographic area licenses in the WCS service. In the auction, which was conducted in 1997, there were seven bidders that won 31 licenses that qualified as very small business entities, and one bidder that won one license that qualified as a small business entity.

60. *1670–1675 MHz Services.* This service can be used for fixed and mobile uses, except aeronautical mobile. An auction for one license in the 1670–1675 MHz band was conducted in 2003. One license was awarded. The winning bidder was not a small entity.

61. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, a little less than one third of these entities can be considered small.

62. *Broadband Personal Communications Service.* The broadband personal communications services (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission initially defined a "small business" for C- and F-Block licenses as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For F-Block licenses, an additional small business size standard for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that claimed small business status in the first two C-Block auctions. A total of 93 bidders that claimed small business status won approximately 40 percent of the 1,479 licenses in the first auction for the D, E, and F Blocks. On April 15, 1999, the Commission completed the reauction of 347 C-, D-, E-, and F-Block licenses in Auction No. 22. Of the 57 winning bidders in that auction, 48 claimed small business status and won 277 licenses.

63. On January 26, 2001, the Commission completed the auction of 422 C and F Block Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in that auction, 29 claimed small business status. Subsequent events concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant. On February 15, 2005, the Commission completed an auction of 242 C-, D-, E-, and F-Block licenses in Auction No. 58. Of the 24 winning bidders in that auction, 16 claimed small business status and won 156 licenses. On May 21, 2007, the Commission completed an auction of 33 licenses in the A, C, and F Blocks in Auction No. 71. Of the 12 winning bidders in that auction, five claimed small business status and won 18 licenses. On August 20, 2008, the Commission completed the auction of 20 C-, D-, E-, and F-Block Broadband PCS licenses in Auction No. 78. Of the eight winning bidders for Broadband PCS licenses in that auction, six claimed small business status and won 14 licenses.

64. *Specialized Mobile Radio Licenses.* The Commission awards "small entity" bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than $15 million in each of the three previous calendar years. The Commission awards "very small entity" bidding credits to firms that had revenues of no more than $3 million in each of the three previous calendar years. The SBA has approved these small business size standards for the 900 MHz Service. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz bands. The 900 MHz SMR auction began on December 5, 1995, and closed on April 15, 1996. Sixty bidders claiming that they qualified as small businesses under the $15 million size standard won 263 geographic area licenses in the 900 MHz SMR band. The 800 MHz SMR auction for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten bidders claiming that they qualified as small businesses under the $15 million size standard won 38 geographic area licenses for the upper 200 channels in the 800 MHz SMR band. A second auction for the 800 MHz band was held on January 10, 2002 and closed on January 17, 2002 and included 23 BEA licenses. One bidder claiming small business status won five licenses.

65. The auction of the 1,053 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000, and was completed on September 1, 2000. Eleven bidders won 108 geographic area licenses for the General Category channels in the 800 MHz SMR band and qualified as small businesses under the $15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were awarded. Of the 22 winning bidders, 19 claimed small business status and won 129 licenses. Thus, combining all four auctions, 41 winning bidders for geographic licenses in the 800 MHz SMR band claimed status as small businesses.

66. In addition, there are numerous incumbent site-by-site SMR licenses and licensees with extended implementation authorizations in the 800 and 900 MHz bands. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. In addition, the Commission does not know how many of these firms have 1,500 or fewer employees, which is the SBA-determined size standard. The Commission assumes, for purposes of this analysis, that all of the remaining extended implementation authorizations are held by small entities, as defined by the SBA.

67. *Lower 700 MHz Band Licenses.* The Commission previously adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. The Commission defined a "small business" as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. A "very small business" is

defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. Additionally, the lower 700 MHz Service had a third category of small business status for Metropolitan/Rural Service Area (MSA/RSA) licenses—"entrepreneur"—which is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA approved these small size standards. An auction of 740 licenses (one license in each of the 734 MSAs/RSAs and one license in each of the six Economic Area Groupings (EAGs)) commenced on August 27, 2002, and closed on September 18, 2002. Of the 740 licenses available for auction, 484 licenses were won by 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business or entrepreneur status and won a total of 329 licenses. A second auction commenced on May 28, 2003, closed on June 13, 2003, and included 256 licenses: 5 EAG licenses and 476 Cellular Market Area licenses. Seventeen winning bidders claimed small or very small business status and won 60 licenses, and nine winning bidders claimed entrepreneur status and won 154 licenses. On July 26, 2005, the Commission completed an auction of 5 licenses in the Lower 700 MHz band (Auction No. 60). There were three winning bidders for five licenses. All three winning bidders claimed small business status.

68. In 2007, the Commission reexamined its rules governing the 700 MHz band in the *700 MHz Second Report and Order,* 72 FR 48814, August 24, 2007. An auction of 700 MHz licenses commenced January 24, 2008 and closed on March 18, 2008, which included, 176 Economic Area licenses in the A Block, 734 Cellular Market Area licenses in the B Block, and 176 EA licenses in the E Block. Twenty winning bidders, claiming small business status (those with attributable average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years) won 49 licenses. Thirty-three winning bidders claiming very small business status (those with attributable average annual gross revenues that do not exceed $15 million for the preceding three years) won 325 licenses.

69. *Upper 700 MHz Band Licenses.* In the *700 MHz Second Report and Order,* the Commission revised its rules regarding Upper 700 MHz licenses. On January 24, 2008, the Commission commenced Auction 73 in which several licenses in the Upper 700 MHz band were available for licensing: 12 Regional Economic Area Grouping licenses in the C Block, and one nationwide license in the D Block. The auction concluded on March 18, 2008, with 3 winning bidders claiming very small business status (those with attributable average annual gross revenues that do not exceed $15 million for the preceding three years) and winning five licenses.

70. *700 MHz Guard Band Licensees.* In 2000, in the *700 MHz Guard Band Order,* 65 FR 17594, April 4, 2000, the Commission adopted size standards for "small businesses" and "very small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business in this service is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. Additionally, a very small business is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. SBA approval of these definitions is not required. An auction of 52 Major Economic Area licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001, and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

71. *Cellular Radiotelephone Service.* Auction 77 was held to resolve one group of mutually exclusive applications for Cellular Radiotelephone Service licenses for unserved areas in New Mexico. Bidding credits for designated entities were not available in Auction 77. In 2008, the Commission completed the closed auction of one unserved service area in the Cellular Radiotelephone Service, designated as Auction 77. Auction 77 concluded with one provisionally winning bid for the unserved area totaling $25,002.

72. *Private Land Mobile Radio ("PLMR").* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories, and are often used in support of the licensee's primary (non-telecommunications) business operations. For the purpose of determining whether a licensee of a PLMR system is a small business as defined by the SBA, the Commission uses the broad census category, Wireless Telecommunications Carriers (except Satellite). This definition provides that a small entity is any such entity employing no more than 1,500 persons. The Commission does not require PLMR licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. The Commission notes that PLMR licensees generally use the licensed facilities in support of other business activities, and therefore, it would also be helpful to assess PLMR licensees under the standards applied to the particular industry subsector to which the licensee belongs.

73. As of March 2010, there were 424,162 PLMR licensees operating 921,909 transmitters in the PLMR bands below 512 MHz. The Commission notes that any entity engaged in a commercial activity is eligible to hold a PLMR license, and that any revised rules in this context could therefore potentially impact small entities covering a great variety of industries.

74. *Rural Radiotelephone Service.* The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System (BETRS). In the present context, the Commission will use the SBA's small business size standard applicable to Wireless Telecommunications Carriers (except Satellite), *i.e.,* an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies proposed herein.

75. *Air-Ground Radiotelephone Service.* The Commission has previously used the SBA's small business size standard applicable to Wireless Telecommunications Carriers (except Satellite), *i.e.,* an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and under that definition, the Commission estimates that almost all of them qualify as small entities under the SBA definition. For purposes of assigning Air-Ground Radiotelephone Service

licenses through competitive bidding, the Commission has defined "small business" as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not exceeding $40 million. A "very small business" is defined as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not exceeding $15 million. These definitions were approved by the SBA. In May 2006, the Commission completed an auction of nationwide commercial Air-Ground Radiotelephone Service licenses in the 800 MHz band (Auction No. 65). On June 2, 2006, the auction closed with two winning bidders winning two Air-Ground Radiotelephone Services licenses. Neither of the winning bidders claimed small business status.

76. *Aviation and Marine Radio Services.* Small businesses in the aviation and marine radio services use a very high frequency (VHF) marine or aircraft radio and, as appropriate, an emergency position-indicating radio beacon (and/or radar) or an emergency locator transmitter. The Commission has not developed a small business size standard specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category Wireless Telecommunications Carriers (except Satellite), which is 1,500 or fewer employees. Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of the Commission's evaluations in this analysis, the Commission estimates that there are up to approximately 712,000 licensees that are small businesses (or individuals) under the SBA standard. In addition, between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of the auction, the Commission defined a "small" business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $15 million dollars. In addition, a "very small" business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $3 million dollars. There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as "small" businesses under the above special small business size standards and may be affected by rules adopted pursuant to the Further Notice.

77. *Advanced Wireless Services (AWS) (1710–1755 MHz and 2110–2155 MHz bands (AWS–1); 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz bands (AWS–2); 2155–2175 MHz band (AWS–3)).* For the AWS–1 bands, the Commission has defined a "small business" as an entity with average annual gross revenues for the preceding three years not exceeding $40 million, and a "very small business" as an entity with average annual gross revenues for the preceding three years not exceeding $15 million. For AWS–2 and AWS–3, although the Commission does not know for certain which entities are likely to apply for these frequencies, it notes that the AWS–1 bands are comparable to those used for cellular service and personal communications service. The Commission has not yet adopted size standards for the AWS–2 or AWS–3 bands but proposes to treat both AWS–2 and AWS–3 similarly to broadband PCS service and AWS–1 service due to the comparable capital requirements and other factors, such as issues involved in relocating incumbents and developing markets, technologies, and services.

78. *3650–3700 MHz band.* In March 2005, the Commission released a *Report and Order and Memorandum Opinion and Order* that provides for nationwide, non-exclusive licensing of terrestrial operations, utilizing contention-based technologies, in the 3650 MHz band (*i.e.,* 3650–3700 MHz). As of April 2010, more than 1270 licenses have been granted and more than 7433 sites have been registered. The Commission has not developed a definition of small entities applicable to 3650–3700 MHz band nationwide, non-exclusive licensees. However, the Commission estimates that the majority of these licensees are Internet Access Service Providers (ISPs) and that most of those licensees are small businesses.

79. *Fixed Microwave Services.* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. They also include the Local Multipoint Distribution Service (LMDS), the Digital Electronic Message Service (DEMS), and the 24 GHz Service, where licensees can choose between common carrier and non-common carrier status. At present, there are approximately 36,708 common carrier fixed licensees and 59,291 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. There are approximately 135 LMDS licensees, three DEMS licensees, and three 24 GHz licensees. The Commission has not yet defined a small business with respect to microwave services. For purposes of the IRFA, the Commission will use the SBA's definition applicable to Wireless Telecommunications Carriers (except satellite)—*i.e.,* an entity with no more than 1,500 persons. Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are up to 36,708 common carrier fixed licensees and up to 59,291 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies adopted herein. The Commission notes, however, that the common carrier microwave fixed licensee category includes some large entities.

80. *Offshore Radiotelephone Service.* This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. There are presently approximately 55 licensees in this service. The Commission is unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for the category of Wireless Telecommunications Carriers (except Satellite). Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees. Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus, under this category and the associated small business size standard,

the majority of firms can be considered small.

81. *39 GHz Service.* The Commission created a special small business size standard for 39 GHz licenses—an entity that has average gross revenues of $40 million or less in the three previous calendar years. An additional size standard for "very small business" is: An entity that, together with affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these small business size standards. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses. Consequently, the Commission estimates that 18 or fewer 39 GHz licensees are small entities that may be affected by rules adopted pursuant to the Further Notice.

82. *Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and "wireless cable," transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)). In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, the Commission estimates that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent BRS licensees that are considered small entities. After adding the number of small business auction licensees to the number of incumbent licensees not already counted, the Commission finds that there are currently approximately 440 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules.

83. In 2009, the Commission conducted Auction 86, the sale of 78 licenses in the BRS areas. The Commission offered three levels of bidding credits: (i) a bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years (small business) received a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding three years (very small business) received a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed $3 million for the preceding three years (entrepreneur) received a 35 percent discount on its winning bid. Auction 86 concluded in 2009 with the sale of 61 licenses. Of the ten winning bidders, two bidders that claimed small business status won 4 licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

84. In addition, the SBA's Cable Television Distribution Services small business size standard is applicable to EBS. There are presently 2,436 EBS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in this analysis as small entities. Thus, the Commission estimates that at least 2,336 licensees are small businesses. Since 2007, Cable Television Distribution Services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: "This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies." The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. To gauge small business prevalence for these cable services the Commission must, however, use the most current census data that are based on the previous category of Cable and Other Program Distribution and its associated size standard; that size standard was: all such firms having $13.5 million or less in annual receipts. According to Census Bureau data for 2007, there were a total of 996 firms in this category that operated for the entire year. Of this total, 948 firms had annual receipts of under $10 million, and 48 firms had receipts of $10 million or more but less than $25 million. Thus, the majority of these firms can be considered small.

85. *Narrowband Personal Communications Services.* In 1994, the Commission conducted an auction for Narrowband PCS licenses. A second auction was also conducted later in 1994. For purposes of the first two Narrowband PCS auctions, "small businesses" were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission awarded a total of 41 licenses, 11 of which were obtained by four small businesses. To ensure meaningful participation by small business entities in future auctions, the Commission adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order,* 65 FR 35843, June 6, 2000. A "small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A "very small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards. A third auction was conducted in 2001. Here, five bidders won 317 (Metropolitan Trading Areas and nationwide) licenses. Three of these claimed status as a small or very small entity and won 311 licenses.

86. *Paging (Private and Common Carrier).* In the *Paging Third Report and Order,* 64 FR 33762, June 24, 1999, the Commission developed a small business size standard for "small businesses" and "very small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A "small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a "very small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these small business size standards. According to Commission data, 291 carriers have reported that they are engaged in Paging or Messaging Service. Of these, an estimated 289 have 1,500 or fewer employees, and two have more than 1,500 employees. Consequently, the Commission estimates that the

majority of paging providers are small entities that may be affected by its action. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 2,499 licenses auctioned, 985 were sold. Fifty-seven companies claiming small business status won 440 licenses. A subsequent auction of MEA and Economic Area ("EA") licenses was held in the year 2001. Of the 15,514 licenses auctioned, 5,323 were sold. One hundred thirty-two companies claiming small business status purchased 3,724 licenses. A third auction, consisting of 8,874 licenses in each of 175 EAs and 1,328 licenses in all but three of the 51 MEAs, was held in 2003. Seventy-seven bidders claiming small or very small business status won 2,093 licenses. A fourth auction, consisting of 9,603 lower and upper paging band licenses was held in the year 2010. Twenty-nine bidders claiming small or very small business status won 3,016 licenses.

87. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a small business size standard for small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, the Commission applies the small business size standard under the SBA rules applicable to Wireless Telecommunications Carriers (except Satellite). Under this category, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. The Commission estimates that nearly all such licensees are small businesses under the SBA's small business size standard that may be affected by rules adopted pursuant to the Further Notice.

88. *220 MHz Radio Service—Phase II Licensees.* The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is subject to spectrum auctions. In the *220 MHz Third Report and Order,* 62 FR 15978, April 3, 1997, the Commission adopted a small business size standard for "small" and "very small" businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. This small business size standard indicates that a "small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A "very small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed $3 million for the preceding three years. The SBA has approved these small business size standards. Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Thirty-nine small businesses won licenses in the first 220 MHz auction. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

e. Satellite Service Providers

89. *Satellite Telecommunications Providers.* Two economic census categories address the satellite industry. The first category has a small business size standard of $30 million or less in average annual receipts, under SBA rules. The second has a size standard of $30 million or less in annual receipts.

90. The category of Satellite Telecommunications "comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications." For this category, Census Bureau data for 2007 show that there were a total of 570 firms that operated for the entire year. Of this total, 530 firms had annual receipts of under $30 million, and 40 firms had receipts of over $30 million. Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are small entities that might be affected by its action.

91. The second category of Other Telecommunications comprises, *inter alia,* "establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems." For this category, Census Bureau data for 2007 show that there were a total of 1,274 firms that operated for the entire year. Of this total, 1,252 had annual receipts below $25 million per year. Consequently, the Commission estimates that the majority of All Other Telecommunications firms are small entities that might be affected by its action.

f. Cable Service Providers

92. Because section 706 requires the Commission to monitor the deployment of broadband using any technology, the Commission anticipates that some broadband service providers may not provide telephone service. Accordingly, the Commission describes below other types of firms that may provide broadband services, including cable companies, MDS providers, and utilities, among others.

93. *Cable and Other Program Distributors.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: "This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies." The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. To gauge small business prevalence for these cable services the Commission must, however, use current census data that are based on the previous category of Cable and Other Program Distribution and its associated size standard; that size standard was: all such firms having $13.5 million or less in annual receipts. According to Census Bureau data for 2007, there were a total of 2,048 firms in this category that operated for the entire year. Of this total, 1,393 firms had annual receipts of under $10 million, and 655 firms had receipts of $10 million or more. Thus, the majority of these firms can be considered small.

94. *Cable Companies and Systems.* The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a "small cable company" is one serving 400,000 or fewer subscribers, nationwide. Industry data that there are currently 4,600 active cable systems in the United States. Of this total, all but nine cable operators are small under the 400,000 subscriber size standard. In addition, under the Commission's rules, a "small

system" is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,945 cable systems nationwide. Of this total, 4,380 cable systems have less than 20,000 subscribers, and 565 systems have 20,000 or more subscribers, based on the same records. Thus, under this standard, the Commission estimates that most cable systems are small entities.

95. *Cable System Operators.* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000." The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, the Commission finds that all but ten incumbent cable operators are small entities under this size standard. The Commission notes that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, and therefore it is unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard.

96. The open video system ("OVS") framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is "Wired Telecommunications Carriers." The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees. According to Census Bureau data for 2007, there were a total of 955 firms in this previous category that operated for the entire year. Of this total, 939 firms had employment of 999 or fewer employees, and 16 firms had employment of 1,000 employees or more. Thus, under this second size standard, most cable systems are small and may be affected by rules adopted pursuant to the Further Notice. In addition, the Commission notes that it has certified some OVS operators, with some now providing service. Broadband service providers ("BSPs") are currently the only significant holders of OVS certifications or local OVS franchises. The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, again, at least some of the OVS operators may qualify as small entities.

g. Electric Power Generators, Transmitters, and Distributors

97. *Electric Power Generators, Transmitters, and Distributors.* The Census Bureau defines an industry group comprised of "establishments, primarily engaged in generating, transmitting, and/or distributing electric power. Establishments in this industry group may perform one or more of the following activities: (1) Operate generation facilities that produce electric energy; (2) operate transmission systems that convey the electricity from the generation facility to the distribution system; and (3) operate distribution systems that convey electric power received from the generation facility or the transmission system to the final consumer." The SBA has developed a small business size standard for firms in this category: "A firm is small if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours." Census Bureau data for 2007 show that there were 1,174 firms that operated for the entire year in this category. Of these firms, 50 had 1,000 employees or more, and 1,124 had fewer than 1,000 employees. Based on this data, a majority of these firms can be considered small.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

98. In the Further Notice, the Commission begins the process of seeking comment on several specific procedures that will apply in the Phase II auction. The Commission seeks comment on three discrete sets of issues relating to the process for determining winning bidders: (1) How to apply weights to the different levels of performance adopted in the concurrently adopted Order; (2) measures to achieve the public interest objective of ensuring appropriate support for all of the states; and (3) measures to achieve the public interest objective of expanding broadband on Tribal lands. The Commission also seeks comment on issues relating to interim deployment milestones for non-terrestrial providers or providers that have already deployed the infrastructure they intend to use to fulfill their Phase II obligations.

99. First, the Commission seeks comment on how to apply weights to the different levels of performance adopted in the concurrently adopted Order. As part of the weighting process, bidders should not need to provide additional information beyond their bid.

100. Second, the Commission also seeks comment on measures to achieve the public interest objective of ensuring appropriate support for all of the states. To the extent that these procedures require bidders to identify whether they qualify, bidders will have to provide that information to the Commission.

101. Third, the Commission seeks comment on several auction procedures that could advance its goal of expanding access to broadband on Tribal lands. Similarly, to the extent that these procedures require bidders to identify whether they qualify, bidders will have to provide that information to the Commission.

102. Fourth, the Commission seeks comment on issues relating to interim deployment milestones for non-terrestrial providers or providers that have already deployed the infrastructure they intend to use to fulfill their Phase II obligations. Alternative interim milestones could require entities to report deployment information at different or accelerated intervals.

5. Steps Taken To Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered

103. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. The Commission expects to consider all of these factors when it has received substantive comment from the public and potentially affected entities.

104. *Comparing Bids of Different Performance Levels.* The Commission does not expect the submission of additional information from bidders in order to score weighted bids. In the Further Notice, the Commission specifically seeks comment on the weighting proposals of a number of industry groups, and it will take into account any concerns that these groups and subsequent commenters may have regarding any additional burden on carriers, particularly small entities. The Commission expects to consider whether any burden from these procedures would be outweighed by the benefit of furthering the Commission's goal to provide households in the relevant high-cost areas with access to high quality broadband services in the most efficient way possible.

105. *Access to Appropriate Phase II Levels for All States.* The Commission does not expect that any weighting factors or other processes adopted to ensure appropriate support for all states will increase the administrative burden on bidders. To the extent that these procedures require bidders to identify whether they qualify, such as whether a bidder is submitting a bid in a declined state, bidders should readily have access to the necessary information.

106. *Access to Service on Tribal Lands.* Similarly, the Commission does not expect that any weighting factors or other processes adopted to advance its goal of expanding access to broadband on Tribal lands will increase the administrative burden on bidders. To the extent that these procedures require bidders to identify whether they qualify, such as whether a bidder is submitting a bid to serve Tribal lands, bidders should readily have access to the necessary information.

107. *Limited Adjustments to Interim Deployment Milestones.* Interim deployment milestones for non-terrestrial providers or providers that have already deployed the infrastructure they intend to use to fulfill their Phase II obligations could require entities to report deployment information at different or accelerated intervals than other Phase II recipients. However, such entities could complete deployment reporting sooner than other providers. All high-cost recipients are subject to narrowly tailored reporting obligations in order to enable the Commission to determine how high-cost support is being used to improve broadband availability, service quality, and capacity.

108. More generally, the Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the Further Notice and this IRFA, in reaching its final conclusions and taking action in this proceeding. The proposals and questions laid out in the Further Notice were designed to ensure the Commission has a complete understanding of the benefits and potential burdens associated with the different actions and methods.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

109. None.

C. Ex Parte Presentations

110. *Permit-But-Disclose.* The proceeding this Second FNPRM initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

111. *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

112. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. The Commission directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. The Commission also strongly encourages parties to track the organization set forth in the FNPRM in order to facilitate its internal review process.

113. *Additional Information.* For additional information on this proceeding, contact Alexander Minard of the Wireline Competition Bureau, Telecommunications Access Policy Division, *Alexander.Minard@fcc.gov,* (202) 418–7400.

IV. Ordering Clauses

114. Accordingly, *it is ordered,* pursuant to the authority contained in sections 1, 2, 4(i), 5, 10, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, 403, 405, and 503 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i), 155, 160, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, 403, 405, 503, 1302, and sections 1.1, 1.427, and 1.429 of the Commission's rules, 47 CFR 1.1, 1.427, and 1.429, that the concurrently adopted Report and Order and Further Notice of Proposed Rulemaking *is adopted,* effective thirty (30) days after publication of the text or summary thereof in the **Federal Register**, except for those rules and requirements involving Paperwork Reduction Act burdens, which shall become effective immediately upon announcement in the **Federal Register** of OMB approval. It is the Commission's intention in adopting these rules that if any of the rules that it retains, modifies, or adopts herein, or the application thereof to any person or circumstance, are held to be unlawful, the remaining portions of the rules not deemed unlawful, and the application of such rules to other persons or circumstances, shall remain in effect to the fullest extent permitted by law.

115. *It is further ordered* that, pursuant to the authority contained in sections 1, 2, 4(i), 5, 10, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, 403, and 405 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i), 155, 201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, 403, 405, 1302, and sections 1.1, 1.421, 1.427, and 1.429 of the Commission's rules, 47 CFR 1.1, 1.421, 1.427, and 1.429, *notice is hereby given* of the proposals and tentative conclusions described in this Further Notice of Proposed Rulemaking.

116. *It is further ordered* that Part 54 of the Commission's rules, 47 CFR part 54, *is amended* as set forth in Appendix A, and such rule amendments shall be effective thirty (30) days after publication of the rules amendments in the **Federal Register**, except to the extent they contain information collections subject to PRA review. The rules that contain information collections subject to PRA review *shall become effective* immediately upon announcement in the **Federal Register** of OMB approval and an effective date.

117. *It is further ordered* that the Commission SHALL SEND a copy of the concurrently adopted Report and Order and Further Notice of Proposed Rulemaking to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

118. *It is further ordered,* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of the concurrently adopted Report and Order and Further Notice of Proposed Rulemaking, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2016–14507 Filed 6–20–16; 8:45 am]

BILLING CODE 6712–01–P

SURFACE TRANSPORTATION BOARD

49 CFR Chapter X

[Docket No. EP 733]

Expediting Rate Cases

AGENCY: Surface Transportation Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Pursuant to section 11 of the Surface Transportation Board Reauthorization Act of 2015, the Surface Transportation Board (Board or STB) is instituting a proceeding through this Advance Notice of Proposed Rulemaking (ANPR) to assess procedures that are available to parties in litigation before courts to expedite such litigation, and the potential application of any such procedures to rate cases before the Board. The Board also intends to assess additional ways to move stand-alone cost (SAC) rate cases in particular more expeditiously.

DATES: Comments are due by August 1, 2016. Reply comments are due by August 29, 2016.

ADDRESSES: Comments on this proposal may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E–FILING link on the Board's Web site, at *http://stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: EP 733, 395 E Street SW., Washington, DC 20423–0001. Copies of written comments will be available for viewing and self-copying at the Board's Public Docket Room, Room 131, and will be posted to the Board's Web site. Information or questions regarding this ANPR should reference Docket No. EP 733 and be in writing addressed to: Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Allison Davis: (202) 245–0378. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Section 11 of the Surface Transportation Board Reauthorization Act of 2015, Public Law 114–110, 129 Stat. 2228 (2015) (STB Reauthorization Act) directs the Board, not later than 180 days after the date of the enactment of the Act, to "initiate a proceeding to assess procedures that are available to parties in litigation before courts to expedite such litigation and the potential application of any such procedures to rate cases." 129 Stat. 2228. In addition, section 11 requires the Board to comply with a new timeline in SAC cases.[1]

In advance of initiating this proceeding, Board staff held informal meetings with stakeholders[2] to explore and discuss ideas on: (1) How procedures to expedite court litigation could be applied to rate cases, and (2) additional ways to move SAC cases forward more expeditiously.

Based on the Board's experience in processing rate cases, as well as the feedback received during the informal meetings, the Board has generated a number of ideas to expedite rate cases. We now seek formal comment on procedures used to expedite court litigation that could be applied to rate cases and the ideas listed below to expedite SAC through this ANPR.[3] In their comments, parties may address any relevant matters, but we specifically seek comment on the following potential changes to SAC rate cases.

Pre-Filing Requirement

In order to expedite SAC cases, several stakeholders suggested that the Board could require a complainant to file a notice before filing its complaint.[4] This would create a "pre-complaint" period, during which the railroad would have time to start preparing for litigation, including gathering documents and data necessary for the discovery stage, which in turn could benefit both parties by accelerating the discovery process.

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[1] The statute previously required the Board to issue a decision no later than 270 days after the close of the record, which the Board measured from the filing of closing briefs. Under the STB Reauthorization Act, the Board is now required to issue a decision no later than 180 days after the close of the record, which by statute is now defined to exclude closing briefs. *See* 49 U.S.C. 10704(d)(2). Thus, pursuant to the STB Reauthorization Act, the time available to the Board to issue a decision after closing briefs has been reduced from 270 days to 150 days. The Board has adopted a new timeline to comply with this provision. *Revised Procedural Schedule in Stand-Alone Cost Cases,* EP 732, slip op. at 2–5 & n.3 (STB served Mar. 9, 2016).

[2] Board staff met with individuals either associated with and/or speaking on behalf of the following organizations: American Chemistry Council; Archer Daniels Midland Company; CSX Transportation, Inc.; Economists Incorporated; Dr. Gerald Faulhaber; FTI Consulting, Inc.; GKG Law, P.C.; Growth Energy; Highroad Consulting; L.E. Peabody; LaRoe, Winn, Moerman & Donovan; consultant Michael A. Nelson; Norfolk Southern Railway Company; Olin Corporation; POET Ethanol Products; Sidley Austin LLP; Slover & Loftus LLP; Steptoe & Johnson LLP; The Chlorine Institute; The Fertilizer Institute; The National Industrial Transportation League; and Thompson Hine LLP. We note that some participants expressed individual views, not on behalf of the organization(s) with which they are associated.

[3] Since 2014, the Board has also undertaken a number of internal changes to process SAC cases more efficiently. Although these changes will not require any stakeholder action, the Board expects that they will lead to improvements in the way the Board manages case workflow. These changes include greater use of technical conferences with parties early in proceedings, issuance of evidentiary instructions following the technical conferences, internal management structure changes for rate cases, improving communication and coordination among Board staff, and setting additional milestone markers within our internal workflow.

[4] In the context of major and significant mergers, the Board requires a pre-filing notification. *See* 49 CFR 1180.4(b).

If a pre-filing notice were adopted, the Board could also use this pre-complaint period to provide parties the opportunity to engage in early-stage mediation, and appoint a mediator upon receipt of the pre-filing notice.[5] This would not prevent parties from engaging in mediation at any other time during the proceeding, and the Board could encourage the parties to do so.

We therefore seek comment on the merits of adopting a pre-filing requirement in SAC cases, and, if a pre-filing notice were adopted, the information that should be contained in that notice and the appropriate time period for filing the notice (*e.g.*, 30 or 60 days prior to the filing of a complaint). Parties may also comment on the idea of offering or requiring mediation during a pre-complaint period, or any other period during the rate case.

Discovery: Standardized Requests and/or Disclosures

In order to expedite litigation, some federal courts have focused on streamlining discovery by, among other things, requiring early disclosures. *See, e.g.*, Fed. R. Civ. P. 26(a)(1). In the informal meetings, several stakeholders stated that standardizing discovery would help expedite rate cases and reduce the number of disputes between the parties. Several stakeholders explained that, over the years, the initial discovery requests relating to both the SAC and market dominance portions of SAC cases have become relatively consistent, and that formalizing such requests could be helpful. Accordingly, the Board could require the parties to either serve standard discovery requests or disclosures of information with the filing of their complaints and answers.

For example, on the filing of the complaint, the complainant could be required to either: (a) Serve a standard set of discovery requests on the defendant railroad covering data pertinent to creation of the stand-alone railroad (SARR), or (b) serve a standard set of disclosures pertinent to market dominance. Then, on the filing of the railroad's answer, the railroad could be required to either: (a) Serve a standard set of discovery requests on the complainant pertinent to market dominance, or (b) serve a standard set of disclosures pertinent to creating the SARR.

Based on the informal discussions with stakeholders, the standard initial information related to creation of the SARR might include: Waybill data; train and carload data; timetables; track charts; authorizations for expenditure; grade, curve, and profile data; Wage Forms A & B; Geographic Information System data; forecasts; and contracts. Standard information related to market dominance might include: Forecasts for issue traffic, alternative transportation options, and states in which the SARR might operate.

Alternatively, rather than requiring requests or disclosures of traffic data related to the SARR, some stakeholders suggested that the Board could collect data that could be used in rate cases. The data could be made available to complainants upon the filing of a complaint and a protective order being entered. We are concerned, however, about how to standardize the data and the burdens collection of the data could impose.

Another potential standardized disclosure that the Board could consider involves software that is not available to the general public. The Board could consider requiring the disclosure by each party of any such software it intends to use in its evidentiary submissions by, for example, the close of discovery. Such early disclosure may avoid disputes on appropriate software after the evidence has been presented.

We therefore seek comment on the advisability of adopting standardized discovery requests and/or disclosures or a database of standardized traffic data as discussed above, as well as the appropriate content and timing of such requests and/or disclosures. Because the Board generally does not have an opportunity to review uncontested discovery requests, it would be beneficial to the Board for parties to include in their comments copies of their initial discovery requests served in recent SAC cases, where applicable, to provide guidance on common discovery topics.

Discovery: Other Ideas

Some federal courts have also streamlined discovery in other ways, such as by adopting limits on discovery. If the Board requires mandatory initial discovery requests or disclosures, such that the core information necessary for a SAC case is accounted for, the Board could then limit the number of additional discovery requests allowed by each party. The Board could allow a party to obtain discovery beyond the set limit only upon a showing of good cause, for example. We seek comment on the merits of limiting discovery requests in conjunction with adopting standardized initial requests/disclosures, and what, if any, those limits should be.

Stakeholders also indicated that the Board could either encourage or require more requests for admissions (particularly with respect to the issue of market dominance) to narrow the scope of contested issues and to avoid the unnecessary presentation of evidence. To encourage thorough and honest consideration of the requests, if a party denies a request for admission with no basis for doing so, that party would pay for the litigation of the issue. *See* 49 CFR 1114.27 (providing for requests for admission); 49 CFR 1114.31(c) (providing for "the reasonable expenses incurred in making that proof"). We seek comment on whether the use of requests for admissions might assist parties and expedite SAC cases.

In the informal meetings, stakeholders also indicated that some discovery disputes over scope and terminology occur with regularity, and that the Board could obviate those disputes through standardization. For example, when an interrogatory or request for production asks for information from a date certain "to the present," the Board could define that term by rule to avoid continued disputes from case to case. We therefore seek comment on how the Board might appropriately define "to the present," as well as comment on any other term or scope issue that could be standardized to avoid unnecessary discovery disputes.

Finally, to encourage parties to resolve discovery disputes among themselves, the Board could consider a rule similar to one used by federal courts requiring parties filing motions to compel to certify that they have attempted to confer with the opposing party. *See* Fed. R. Civ. P. 37(a)(1) ("The motion [to compel disclosure or discovery] must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action."). The Board could also consider whether such a requirement should be used for other types of motions, such as modifications to the procedural schedule. *See, e.g.*, 49 CFR 1111.10(a) (requiring parties in complaint proceedings to "meet, or discuss by telephone, discovery and procedural matters within 12 days after an answer to a complaint is filed."). We seek comment on the merits of such a requirement.

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[5] Currently, the Board's regulations state that, in a SAC case, a shipper must engage in mediation with the railroad upon filing a formal complaint and that a mediator will be assigned within 10 business days of the filing of the shipper's complaint. 49 CFR 1109.4(a) and (b).

Evidentiary Submissions: Standardization

In the informal meetings, stakeholders indicated that standardization of certain evidence could not only reduce the number of litigated issues, thereby expediting the case, but would also allow parties before a rate case has even started to more accurately assess their respective positions and the potential outcome of the case. Stakeholders cautioned, however, that standardization has the potential to favor one side or the other; thus the Board should be cognizant of those implications when selecting methods of standardization.

Standardization could be done in a number of ways. For example, the Board could standardize unit costs based on actual railroad data or prior rate cases; standardize sources of data that parties can rely on; or standardize a methodology to be used for particular items.

There are various areas in a SAC case that may be well-suited to some form of standardization or simplification. For example, rather than deciding each individual element within the general and administrative (G&A) section, the Board could estimate G&A as a percentage of the SARR's total revenue or based on the SARR's traffic levels, or the Board could adopt one party's entire G&A evidence over the other. For maintenance of way (MOW), the parties could develop MOW expenses by developing a general unit cost by dividing MOW operating costs by the Trailing Gross Ton Miles found in the R–1 multiplied by the General Overhead ratio found in the Board's Uniform Rail Costing System. Construction costs might be standardized by using R–1 data or the carriers' depreciation studies to develop the cost per track mile. Similarly, the Board could develop standardized locomotive acquisition costs using data from the R–1 reports (Schedule 710S) and the carriers' periodic depreciation studies. Finally, the Board could use Wage Forms A&B to standardize wages/salaries.

Although we invite comment on any item that commenters believe should be standardized, we seek comment on the specific areas listed above.

Evidentiary Submissions: Other Ideas

Stakeholders also discussed ways to address the exceedingly large number of contested issues in each case, and how that affects the presentation of evidence. The Board could consider early resolution of certain issues through interim rulings to narrow the scope of the case or to avoid the evidentiary misalignment that occurs when parties build their cases on top of fundamental disagreements, as well as encouraging motions practice as a means of managing the scope and timing of cases. For example, if the railroad believes a complainant's operating plan cannot be corrected, the Board could require the railroad to file a motion to dismiss rather than submitting a reply based on a different operating plan in order to avoid the problem of misaligned evidentiary submissions. In other words, the Board could determine that a railroad may not submit an entirely new operating plan in its reply. Assignment of attorneys' fees or extension of rate prescriptions could be used to discourage frivolous motions to dismiss. Depending on the technical challenge presented by a case, the Board could dismiss a case without prejudice.

Another concern that impacts the Board's ability to process cases efficiently and the parties' ability to respond to each other's evidence relates to the scope of the pleadings. Many stakeholders expressed concern that the scope of rebuttal filings is often disproportionate to that of opening filings and that final briefs are often more akin to surrebuttal than a summary of key issues. To address these concerns, the Board could more strictly enforce the evidentiary standard set forth in *Duke Energy Corp.* v. *Norfolk Southern Railway,* 7 S.T.B. 89, 100 (2003), which requires that the complainant "must present its full case-in-chief in its opening evidence," in conjunction with consideration of motions to strike inappropriate rebuttal evidence. Additionally, the Board could consider putting a page limit on rebuttal evidence (*e.g.,* cannot be longer than opening, or must be no more than half the length of opening). The Board could also limit final briefs to certain subjects on which the Board would like further argument rather than allowing generalized argument.

Next, to address concerns about parties' rate case presentations relying on software that is not available to the general public, some stakeholders suggested that the Board should restrict a party's ability to use such software in its rate presentation unless it provides a temporary license to the opposing party. If the Board required parties to provide temporary licenses to use non-publicly availably software, whenever parties used such software in their rate case presentations, such provision could be made along with a disclosure of the software being used, as discussed earlier.

Finally, to give parties more time to ensure that public versions of filings are appropriately redacted without delaying the case, the Board could consider staggering the filing of public and highly confidential versions of the parties' pleadings. For example, parties could file their highly confidential pleadings and workpapers according to the procedural schedule, but have an additional period of days to file their public versions. We seek comment on these ideas, and others, relating to whether interim rulings, narrowing the scope of pleadings, software requirements, and staggering public and confidential versions would assist parties, minimize disputes, and expedite SAC cases.

Interaction With Board Staff

During the informal meetings, numerous stakeholders expressed that increased interaction with Board staff during all stages of a SAC case would be beneficial. To that end, during and/or after the submission of evidence, the Board could make more aggressive use of written questions from staff and/or technical conferences with the parties to clarify the record. If technical conferences are used, the Board could provide advance notice of the topics to be discussed to promote an efficient and productive conference. An early technical conference could be useful to establish ground rules and issue-specific Board expectations. The Board could also consider assigning a staff member as a liaison to the parties to facilitate greater interaction. This could allow the Board to be more available to the parties, particularly toward the beginning of a case, to answer questions about the process and to intervene informally (*e.g.,* hold status conferences) if it would help discovery or other matters move more smoothly. Both technical conferences and additional interaction with Board staff would be encouraged at any time during the proceeding.

Regulatory Flexibility Act

Because this ANPR does not impose or propose any requirements, and instead seeks comments and suggestions for the Board to consider in possibly developing a subsequent proposed rule, the requirements of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612 (RFA) do not apply to this action. Nevertheless, as part of any comments submitted in response to this ANPR, parties may include comments or information that could help the Board assess the potential impact of a subsequent regulatory action on small entities pursuant to the RFA.

It is ordered:

1. Initial comments are due by August 1, 2016.
2. Replies are due by August 29, 2016.
3. This decision is effective on its date of service.

Decided: June 14, 2016.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

Raina S. Contee,

Clearance Clerk.

[FR Doc. 2016–14625 Filed 6–20–16; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 151215999–6488–01]

RIN 0648–BF64

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Specification of Management Measures for Atlantic Herring for the 2016–2018 Fishing Years

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes regulations to implement the 2016–2018 fishery specifications and management measures for the Atlantic herring fishery. The specifications would set harvest specifications and river herring/shad catch caps for the herring fishery for the 2016–2018 fishing years as recommended to NMFS by the New England Fishery Management Council. The river herring/shad catch caps are area and gear-specific catch caps for river herring and shad for trips landing more than 6,600 lb (3 mt) of herring. The specifications and management measures are set in order to meet conservation objectives while providing sustainable levels of access to the fishery.

DATES: Public comments must be received by July 21, 2016.

ADDRESSES: Copies of supporting documents used by the New England Fishery Management Council (Council), including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950, telephone (978) 465–0492. The EA/RIR/IRFA is also accessible via the Internet at *http://www.greateratlantic.fisheries.noaa.gov/*.

You may submit comments, identified by NOAA–NMFS–2016–0050, by any one of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0050,* click the "Comment Now!" icon, complete the required fields, and enter or attach your comments;
- *Mail:* Submit written comments to NMFS, Greater Atlantic Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on 2016–2018 Herring Specifications;"
- *Fax:* (978) 281–9135, Attn: Shannah Jaburek.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Shannah Jaburek, Fishery Management Specialist, (978) 282–8456, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION:

Background

Regulations implementing the Atlantic Herring Fishery Management Plan (FMP) for herring appear at 50 CFR part 648, subpart K. The regulations at § 648.200 require the Council to recommend herring specifications for NMFS' review and proposal in the **Federal Register**, including: The overfishing limit (OFL); acceptable biological catch (ABC); annual catch limit (ACL); optimum yield (OY); domestic annual harvest (DAH); domestic annual processing (DAP); U.S. at-sea processing (USAP); border transfer (BT); the sub-ACL for each management area, including seasonal periods as allowed by § 648.201(d) and modifications to sub-ACLs as allowed by § 648.201(f); and the amount to be set aside for the research set aside (RSA) (3 percent of the sub-ACL from any management area) for up to 3 years. These regulations also provide the Council with the discretion to recommend river herring and shad catch caps as part of the specifications.

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), NMFS is required to publish proposed rules for comment after preliminarily determining whether they are consistent with applicable law. The Magnuson-Stevens Act permits NMFS to approve, partially approve, or disapprove measures proposed by the Council based only on whether the measures are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. Otherwise, NMFS must defer to the Council's policy choices. Under the Atlantic herring regulations guiding the specifications process, NMFS must review the Council's recommended specifications and publish notice of the proposed specifications, clearly noting any differences from the Council's recommendations. NMFS is proposing and seeking comment on the Council's recommended herring specifications and river herring and shad catch caps and whether they are consistent with the Herring FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law.

The proposed 2016–2018 herring specifications are based on the provisions currently in the Herring FMP, and provide the necessary elements to comply with the ACL and accountability measure (AM) requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). At its September 29, 2015, meeting, the Council recommended the 2016–2018 specifications for the herring fishery, including river herring/shad catch caps. NMFS proposes to implement the herring specifications as recommended by the Council and detailed in Table 1 below. For 2016–2018 fishing years, the Council may annually review these specifications and recommend adjustments if necessary.

TABLE 1—PROPOSED ATLANTIC HERRING SPECIFICATIONS

Status Quo and Proposed Atlantic Herring Specifications (mt)

	2013–2015	2016–2018
Overfishing Limit	169,000–2013 136,000–2014 114,000–2015	138,000–2016 117,000–2017 111,000–2018.
Acceptable Biological Catch	114,000	111,000.
Management Uncertainty	6,200	6,200.
Optimum Yield/ACL	107,800	104,800.*
Domestic Annual Harvest	107,800	104,800.
Border Transfer	4,000	4,000.
Domestic Annual Processing	103,800	100,800.
U.S. At-Sea Processing	0	0.
Area 1A Sub-ACL (28.9%)	31,200	30,300.*
Area 1B Sub-ACL (4.3%)	4,600	4,500.
Area 2 Sub-ACL (27.8%)	30,000	29,100.
Area 3 Sub-ACL (39%)	42,000	40,900.
Fixed Gear Set-Aside	295	295.
Research Set-Aside	3 percent of each sub-ACL	3 percent of each sub-ACL.

* If New Brunswick weir fishery catch through October 1 is less than 4,000 mt, then 1,000 mt will be subtracted from the management uncertainty buffer and added to the ACL and Area 1A Sub-ACL.

An operational update to the herring stock assessment, completed in May 2015, indicated that herring was not overfished and overfishing was not occurring. However, the assessment contained a retrospective pattern suggesting that spawning stock biomass (SSB) is likely overestimated and fishing mortality (F) is likely underestimated. Following an adjustment for the retrospective pattern, the assessment estimated the herring stock at approximately double its target biomass (SSB_{MSY}) and F is approximately half the fishing mortality threshold (F_{MSY}).

At its June 2015 meeting, the Council recommended a herring ABC of 111,000 mt (a 3-mt decrease from status quo) for 2016–2018 based on the current control rule (constant catch with 50-percent probability that $F > F_{MSY}$ in last year). The resulting overfishing limit was calculated to be 138,000 mt in 2016, 117,000 mt in 2017, and 111,000 mt in 2018. This ABC recommendation is consistent with the Scientific and Statistical Committee's (SSC) advice. After considering herring's role as forage, the Council found that, while the ABC control rule does not explicitly adjust for herring's role in the ecosystem, herring's high biomass (approximately 74 percent of unfished biomass) and low fishing mortality (ratio of catch to consumption by predators is 1:4) likely achieves ecosystem goals.

Several other factors contributed to the SSC's and Council's recommendation to continue using the current constant catch ABC control rule for 2016–2018. First, the Council recently initiated Amendment 8 to the Herring FMP to consider herring ABC control rules that may explicitly adjust for herring's role as forage in the ecosystem. Second, key attributes of the stock (SSB, recruitment, F, and survey indices) have not significantly changed since the constant catch control rule for herring was used in the 2013–2015 herring specifications. Third, the realized catch in the fishery is generally well below ABC, reducing the likelihood of overfishing. Fourth, the probability of the stock becoming overfished in 2016–2018 is close to zero. Lastly, the constant catch control rule provides the herring industry with economic stability, which was one of the considerations in the Council's harvest risk policy.

The herring ABC is reduced from the OFL to account for scientific uncertainty. The Council's recommendation to continue using the current constant catch control rule means that the ABC would equal the OFL in 2018. This is consistent with the status quo specifications when ABC was set equal to OFL in 2015, which were successful in preventing overfishing. Some stakeholders (environmental advocacy groups, groundfish industry, and recreational fishing community) are concerned with the potential implications of the assessment's retrospective pattern on herring biomass, including its availability as forage, and the lack of a scientific uncertainty buffer in 2018. Subject to review and consideration of public comment, NMFS preliminarily supports the Council's ABC recommendation. The recent herring operational assessment indicates that the herring biomass is robust, despite an adjustment in the assessment for the retrospective pattern. The realized catch in the fishery is expected to be much less than the ABC, reducing the likelihood of overfishing. Additionally, NMFS anticipates that Amendment 8 will be adopted prior to the development of the 2019–2021 herring fishery specifications, and will consider herring's role in the ecosystem.

Under the Herring FMP, the herring ACL is reduced from ABC to account for management uncertainty, and the primary source of management uncertainty is catch in the New Brunswick (NB) weir fishery. Catch in the weir fishery is variable, but has declined in recent years. After considering a range of management uncertainty buffers, the Council recommended a buffer of 6,200 mt, which is equivalent to the value of the buffer in 2015. The recommended buffer is greater than the most recent 3-year and 5-year average catch in the NB weir fishery. This would be a more conservative buffer than the buffer used in the most recent specifications that was based on the most recent 3-year average from the NB weir fishery. The resulting stockwide ACL would be 104,800 mt. Given the variability of the NB weir catch and the likelihood that weir catch may be less than 6,200 mt, the Council also recommended a payback provision related to the management uncertainty buffer. Specifically, the Council recommended subtracting 1,000 mt from the buffer and adding it to the ACL if the weir fishery harvests less than 4,000 mt by October 1. The Council recommended October 1 because the fishery primarily occurs during the late summer and fall months (June-October), and catch from the fishery occurring after October averaged less than four percent of total reported landings. If NB catch is less than 4,000 mt by October 1, the buffer would be reduced to 5,200 mt, the ACL would be increased to 105,800 mt, and the Herring Management Area 1A sub-ACL would be increased to 31,300 mt. The NB weir fishery payback provision was last in effect during fishing years 2010–2012. Council recommendations for all other herring specifications, including the sub-ACL's percentages allocated to the herring management areas, were status quo.

BT is a processing allocation available to Canadian dealers. The MSA provides for the issuance of permits to Canadian vessels transporting U.S. harvested herring to Canada for sardine processing. The Council recommended a 4,000 mt specification for BT. The amount specified for BT has equaled 4,000 mt since 2000. As there continues to be Canadian interest in transporting herring for sardine processing, the Council recommended and NMFS is proposing that the specification for BT would remain unchanged at 4,000 mt.

The Herring FMP specifies that DAH will be set less than or equal to OY and be comprised of DAP and BT. Consistent with the proposed specifications for OY and ACL, the Council recommended that DAH be 104,800 mt for 2016–2018. DAH should reflect the actual and potential harvesting capacity of the U.S. herring fleet. Since 2001, total landings in the U.S. fishery have decreased, but herring catch has remained somewhat consistent from 2003–2014, averaging 91,925 mt. When previously considering the DAH specification, the Council evaluated the harvesting capacity of the directed herring fleet and determined that the herring fleet is capable of fully utilizing the available yield from the fishery. This determination is still true. Therefore, NMFS is proposing that DAH for the 2016–2018 fishing years be set at 104,800 mt, equal to the OY and ACL.

DAP is the amount of U.S. harvest that is processed domestically, as well as herring that is sold fresh (*i.e.,* bait). DAP is calculated by subtracting BT from DAH. Using this formula, the Council recommended and NMFS is proposing that DAP be set at 100,800 mt for 2016–2018.

A portion of DAP may be specified for the at-sea processing of herring in Federal waters. When determining the USAP specification, the Council considers availability of shore-side processing, status of the resource, and opportunities for vessels to participate in the herring fishery. During the 2007–2009 fishing years, the Council maintained a USAP specification of 20,000 mt (Herring Management Areas 2/3 only) based on information received about a new at-sea processing vessel that intended to utilize a substantial amount of the USAP specification. At that time, landings from Areas 2 and 3—where USAP was authorized—were considerably lower than allocated sub-ACLs for each of the past several years. Moreover, the specification of 20,000 mt for USAP did not restrict either the operation or the expansion of the shoreside processing facilities during the 2007–2009 fishing years. However, this operation never materialized, and none of the USAP specification was used during the 2007–2009 fishing years. Consequently, the Council recommended and NMFS set USAP at zero for the 2010–2015 fishing years. The Council did not receive any information that would suggest changing this specification for fishing years 2016–2018, thus the Council recommended and NMFS is proposing that the specification of USAP would remain unchanged at zero.

The herring ABC specification recommended by the SSC for 2016–2018 is not substantially different from the 2013–2015 ABC specification; therefore, the Council, based on a recommendation from the Herring Committee, has determined that there is no need to consider modifying the distribution of the total ACL between the herring management areas. Additionally, information for the recent herring operational assessment report does not suggest there is a biological need to consider modifying the distribution of stockwide ACL. This approach would maintain status quo for the herring sub-ACLs for the 2016–2018 specifications.

During 2013–2015, the herring research set-aside (RSA) for each management area was three percent of the area's sub-ACL. The research set-aside was established in Amendment 1 (0–3 percent for any management area). The herring RSA set-aside is removed from each sub-ACL prior to allocating the remaining sub-ACL to the fishery. If a proposal is approved, but a final award is not made by NMFS, or if NMFS determines that the allocated RSA cannot be utilized by a project, NMFS shall reallocate the unallocated or unused amount of the RSA to the respective sub-ACL, in accordance with the Administrative Procedure Act (APA) requirements, provided that the additional catch can be available for harvest before the end of the fishing year for which that RSA is specified. Any unallocated or unused RSA would be re-allocated to the sub-ACL and made available to the fleet before the end of the fishing year in accordance with the APA, provided that the RSA can be available for harvest before the end of the fishing year for which the RSA is specified. The Council did not receive any information that would suggest changing this specification for fishing years 2016–2018, thus the Council recommended and NMFS is proposing that the specification of RSA would remain unchanged at 3 percent of each sub-ACL. On February 29, 2016, NMFS fully awarded the herring RSA allocations for fishing years 2016–2018.

Herring regulations at § 648.201(e) specify that up to 500 mt of the Area 1A sub-ACL shall be allocated for the fixed gear fisheries in Area 1A (weirs and stop seines) that occur west 67°16.8′ W. Long. This set-aside shall be available for harvest by the fixed gear fisheries within the specified area until November 1 of each year; any unused portion of the allocation will be restored to the Area 1A sub-ACL after November 1. During 2013–2015, the fixed gear fisheries set-aside was specified at 295 mt. Because the proposed Area 1A sub-ACL for 2016–2018 is not substantially different from the Area 1A sub-ACL in 2015, the Council recommended that the fixed gear fisheries set-aside remain the same. Therefore, the Council recommended, and NMFS is proposing, that the fixed gear fisheries set-aside remain unchanged at 295 mt for 2016–2018.

Framework 3 to the Herring FMP established gear and area-specific river herring/shad catch caps for the herring fishery in 2014. These included catch caps for midwater trawl vessels fishing in the Gulf of Maine, off Cape Cod, and in Southern New England, as well as for small-mesh bottom trawl vessels fishing in Southern New England. Herring regulations at § 648.201(a)(4)(ii) state that once 95 percent of a catch cap is reached, the herring possession limit for vessels using that gear type and fishing in that area is reduced to 2,000 lb (907 kg) for the remainder of the fishing year. To date, the value of the caps has been specified using the median catch of river herring and shad catch over the previous 5 years (2008–2012). The intent of the caps is to provide a strong an incentive for the herring fleet to continue to reduce river herring and shad catch, while allowing the fleet to fully harvest the herring ACL.

The Council's recommendations for 2016–2018 river herring/shad catch caps, as specified below in Table 2, are based on updated data and a revised methodology. The Council's intent in specifying the value of the catch caps using the weighted mean catch of river herring and shad (versus median catch) and using a longer time series (the most recent 7 years versus 5 years) is to best account for the inter-annual variability in the level of sampling by both observers and portside samplers as well as river herring and shad catch. Additionally, the revised methodology includes previously omitted catch data, including some shad landings and trips from catch cap areas where trips did not meet the 6,600-lb (3-mt) herring landing threshold, and updated extrapolation methodologies. The Council's recommended catch caps appear to better reflect the herring fishery's recent catch of river herring and shad. Additionally, they balance the opportunity to achieve OY with providing an incentive to avoid river herring and shad catch. For these reasons, the Council recommended and NMFS is proposing the river herring/shad catch caps as shown in Table 2 for fishing years 2016–2018. Although increasing catch caps has the potential to increase river herring and shad catch, the fishery still has strong incentive to avoid reaching the caps. Specifically, the economic loss from limiting herring harvest in an area before the sub-ACLs for an area have been fully reached. Environmental advocates and participants in the tuna and recreational fisheries strongly advised the Council against increasing river herring/shad catch caps for the herring fishery. Instead they recommended that status quo cap amounts should continue through 2018. Subject to review and consideration of public comment on the suitability of these methods for setting caps that provide a strong incentive to avoid river herring and shad catch while allowing the fleet to achieve OY, NMFS preliminarily supports the Council's river herring/shad catch cap recommendations based on the use of the weighted mean and additional data.

TABLE 2—PROPOSED RIVER HERRING/SHAD CATCH CAPS

Status quo and proposed River Herring/Shad catch caps (mt)		
Catch cap area	2013–2015	2016–2018
Gulf Of Maine (GOM)	Midwater Trawl–85.5	Midwater Trawl–76.7.
Cape Cod (CC)	Midwater Trawl–13.3	Midwater Trawl–32.4.
Southern New England/Mid-Atlantic (SNE/MA)	Midwater Trawl–123.7 Bottom Trawl–88.9	Midwater Trawl–129.6. Bottom Trawl–122.3.
Georges Bank (GB)	0	0.
Total	Midwater Trawl–222.5 Bottom Trawl–88.9	Midwater Trawl–238.7. Bottom Trawl–122.3.

Classification

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has preliminarily determined that this proposed rule is consistent with the Herring FMP, other provisions of the MSA, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A summary of the analysis follows.

Description of the Reasons Why Action by the Agency Is Being Considered and Statement of the Objectives of, and Legal Basis for, the Proposed Rule

This action proposes management measures and 2016–2018 specifications for the herring fishery. A complete description of the reasons why this action is being considered, and the objectives of and legal basis for this action, are contained in the preamble to this proposed rule and are not repeated here.

Description and Estimate of Number of Small Entities to Which This Proposed Rule Would Apply

The proposed specifications would affect all permitted herring vessels; therefore, the regulated entity is the business that owns at least one herring permit. Based on 2014 permit data, the number of potential fishing vessels in each permit category in the herring fishery are as follows: 39 for Category A (limited access, all herring management areas); 4 for Category B (limited access, Herring Management Areas 2/3); 46 for Category C (limited access, all herring management areas); 1,841 for Category D (open access, all herring management areas); and 4 for Category E (open access, Herring Management Areas 2/3). The RFA recognizes three kinds of small entities: Small businesses; small organizations; and small governmental jurisdictions. A small entity is classified as a finfish firm if more than half of the firm's gross receipts are derived from finfish with receipts of up to $20.5 million of gross revenues annually. Individually-permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different fishery management plans, even beyond those affected by the proposed action. Furthermore, multiple permitted vessels and/or permits may be owned by entities with various personal and business affiliations. For the purposes of this analysis, "ownership entities" are defined as those entities with common ownership as listed on the permit application. Only permits with identical ownership are categorized as an "ownership entity." For example, if five permits have the same seven persons listed as co-owners on their permit applications, those seven persons would form one "ownership entity," that holds those five permits. If two of those seven owners also co-own additional vessels, that ownership arrangement would be considered a separate "ownership entity" for the purpose of this analysis.

From 2014 permit data, there were 1,206 firms that held at least one herring permit; of those, 1,188 were classified as small businesses. There were 103 firms, 96 classified as small business, that held at least one limited access permit. There were 38 firms, including 34 small businesses, that held a limited access permit and were active in the herring fishery (Table 3). Active large entities all held at least one limited access herring permit. Table 4 describes gross receipts from both all fishing and only the herring fishery for firms that were active in the herring fishery. The small firms with limited access permits had 60 percent higher gross receipts and 85 percent higher revenue from herring than the small firms without a limited access herring permit.

TABLE 3—SMALL AND LARGE FIRMS IN THE ATLANTIC HERRING FISHERY

	All permits		Limited access only	
	All	Active	All	Active
Small	1,188	63	96	34
Large	18	4	7	4
Total	1,206	67	103	38

TABLE 4—AVERAGE REVENUES FOR ACTIVE SMALL AND LARGE ENTITIES IN THE ATLANTIC HERRING FISHERY

	All permits		Limited access only	
	All revenue	Herring revenue	All revenue	Herring revenue
Small	$986,399	$339,155	$1,588,059	$624,820
Large	15,913,950	1,426,152	15,913,948	1,426,152

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This action contains no new collection-of-information, reporting, or recordkeeping requirements.

Federal Rules Which May Duplicate, Overlap, or Conflict With the Proposed Rule

This action does not duplicate, overlap, or conflict with any other Federal rules.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statues and Which Minimize Any Significant Economic Impact on Small Entities

The primary differences among Alternative 1 (No Action), Alternative 2 (non-preferred alternative), and Alternative 3 (preferred alternative) for the 2016–2018 herring specifications are the specifications for ABC and ACL. Alternative 1 considers an ABC (114,000 mt) that is 3,000 mt (2.6 percent) higher than the ABC considered under Alternatives 2 and 3 (111,000 mt). Additionally, Alternatives 1 and 2 consider a higher ACL than Alternative 3. The ACL considered under Alternative 3 (104,800 mt) is 3,000 mt (2.78 percent) and 3,200 mt (2.96 percent) less, respectively, than the ACLs considered under Alternative 1 (107,800 mt) and Alternative 2 (108,000 mt). The EA for 2016–2018 herring specifications concluded that all the alternatives would have a low positive economic impact because there would be mortality controls in the fishery and the overall status of herring is not expected to be jeopardized. The EA also concluded that the differences among alternatives were negligible because all alternatives the Council considered for OFL/ABC specifications showed the herring SSB and fishing mortality that would result from fully utilizing the ABC fall within the same range based on the 80-percent confidence intervals. Under Alternatives 1 and 2, small entities are expected to experience slight increases in both gross revenues and herring revenues over the preferred alternative due to higher ACLs considered under Alternative 1 and Alternative 2. Under Alternatives 1 and 2, fishing vessels may take slightly more fishing trips and incur slightly higher variable operating costs over the preferred alternative. However, Alternative 3 would maintain a constant ABC over the specifications period, which would provide consistency for fishing industry operations, stability for the industry, and a steady supply to the market in addition to the stability provided by a three-year specifications process. Fixed and quasi-fixed costs are expected to remain the same. Because the ACLs are fishery wide and closures would apply to the entire fishery, the effects of these closures should be felt proportionally by the herring industry.

For specifying the 2016–2018 river herring/shad catch caps, the Council chose the preferred alternative (Alternative 3, Option 2) of using the weighted mean and 7-year extended time series shown below in table 5, because it uses the best technical approach to determining river herring/shad catch estimates in support of the goals and objective of Framework 3.

TABLE 5—RIVER HERRING/SHAD CATCH CAP ALTERNATIVES

Catch caps	Alternative 1—no action (2008–2012) (mt)	Alternative 2–5 years of data (2008–2012) *		Alternative 3–7 years of data (2008–2014) *	
		Option 1 median (mt)	Option 2 avg mean (mt)	Option 1 median (mt)	Option 2 ** avg mean (mt)
Midwater Trawl Gulf of Maine	85.5	98.1	98.3	11.3	76.7
Midwater Trawl Cape Cod	13.3	8.9	27.6	29.5	32.4
Midwater Trawl Southern New England	123.7	83.9	115.4	83.9	129.6
Bottom Trawl Southern New England	88.9	19.6	28.2	24.0	122.3
Total	311.4	210.5	269.5	148.7	361.0

* *Data errors and extrapolation methodologies were corrected and revised.*
** *Preferred Alternative.*

The primary goal is to provide strong incentive for the industry to continue to avoid river herring/shad and reduce river herring/shad catch to the extent possible. Based on the performance of the fishery in the first year under the river herring/shad catch caps, most of the observed river herring/shad catch has been in the Southern New England by vessels using bottom trawl gear. Alternative 3, Option 2 (preferred) would be the least constraining on the directed herring fishery compared to Alternatives 1 and 2, particularly in the Southern New England bottom trawl catch cap area.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: June 15, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.201, paragraph (h) is added to read as follows:

§ 648.201 AMs and harvest controls.

* * * * *

(h) If NMFS determines that the New Brunswick weir fishery landed less than 4,000 mt through October 1, NMFS will allocate an additional 1,000 mt to the stockwide ACL and Area 1A sub-ACL. NMFS will notify the Council of this adjustment and publish the adjustment in the **Federal Register**.

[FR Doc. 2016–14568 Filed 6–20–16; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 81, No. 119
Tuesday, June 21, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Adoption of Recommendations

AGENCY: Administrative Conference of the United States.

ACTION: Notice.

SUMMARY: The Administrative Conference of the United States adopted two recommendations at its Sixty-fifth Plenary Session. The appended recommendations address: Consumer Complaint Databases and Aggregation of Similar Claims in Agency Adjudication.

FOR FURTHER INFORMATION CONTACT: For Recommendation 2016–1, Gisselle Bourns; for Recommendation 2016–2, Amber Williams. For both of these actions the address and telephone number are: Administrative Conference of the United States, Suite 706 South, 1120 20th Street NW., Washington, DC 20036; Telephone 202–480–2080.

SUPPLEMENTARY INFORMATION: The Administrative Conference Act, 5 U.S.C. 591–596, established the Administrative Conference of the United States. The Conference studies the efficiency, adequacy, and fairness of the administrative procedures used by Federal agencies and makes recommendations to agencies, the President, Congress, and the Judicial Conference of the United States for procedural improvements (5 U.S.C. 594(1)). For further information about the Conference and its activities, see *www.acus.gov*. At its Sixty-fifth Plenary Session, held June 10, 2016, the Assembly of the Conference adopted two recommendations.

Recommendation 2016–1, *Consumer Complaint Databases*. This recommendation encourages agencies that make consumer complaints publicly available through online databases or downloadable data sets to adopt and publish written policies governing the dissemination of such information to the public. These policies should inform the public of the source and limitations of the information and permit entities publicly identified to respond or request corrections or retractions.

Recommendation 2016–2, *Aggregation of Similar Claims in Agency Adjudication*. This recommendation provides guidance to agencies on the use of aggregation techniques to resolve similar claims in adjudications. It sets forth procedures for determining whether aggregation is appropriate. It also considers what kinds of aggregation techniques should be used in certain cases and offers guidance on how to structure the aggregation proceedings to promote both efficiency and fairness.

The Appendix below sets forth the full texts of these two recommendations. The Conference will transmit them to affected agencies, Congress, and the Judicial Conference of the United States. The recommendations are not binding, so the entities to which they are addressed will make decisions on their implementation.

The Conference based these recommendations on research reports that are posted at: *https://www.acus.gov/65th*. A video of the Plenary Session is available at: *new.livestream.com/ACUS/65thPlenary*, and a transcript of the Plenary Session will be posted when it is available.

Dated: June 16, 2016.

Shawne C. McGibbon,
General Counsel.

APPENDIX—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Administrative Conference Recommendation 2016–1

Consumer Complaint Databases

Adopted June 10, 2016

Some federal agencies maintain records of consumer complaints and feedback on products and services offered by private entities. Taking advantage of recent technological developments, several agencies have recently begun to make such information available to the public through online searchable databases and downloadable data sets that contain complaint narratives or provide aggregate data about complaints. Examples of such online searchable databases include: the Consumer Product Safety Commission's database of consumer product incident reports ("*Saferproducts.gov*"); the National Highway Traffic Safety Administration's database of recalls, investigations, and complaints ("*Safercar.gov*"); and the Consumer Financial Protection Bureau's database of financial products and services complaints ("Consumer Complaint Database").[1]

As documented by the Executive Office of the President's National Science and Technology Council, agencies are constantly improving databases that publish consumer complaints and information, and are gradually developing best practices for such disclosures.[2] Two policy considerations are significant in this process. Agencies must have the flexibility to provide information to the public to facilitate informed decisionmaking. At the same time, agencies should inform the public of the limitations of the information they disseminate.[3] The following recommendations aim to promote the widespread availability of such information and to identify best practices to ensure the integrity of complaints databases and data sets.

Recommendation

To the extent permitted by law, agencies that make consumer complaints publicly available (whether in narrative or aggregated form) through online databases or downloadable data sets should adopt and publish online written policies governing the public dissemination of consumer complaints through databases or downloadable data sets. These policies should:

1. Inform the public of the source(s) and limitations of the information, including whether the information is verified or

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[1] Other examples located by the Administrative Conference include: the Department of Transportation's monthly data sets on the number and types of complaints against airlines ("Air Travel Consumer Report") (only aggregated data about complaints is made public, with the exception of animal incident reports, for which a narrative description is provided); the Federal Trade Commission's consumer complaints database ("Consumer Sentinel") (only aggregated data about complaints is made public); and the Federal Communications Commission's database of unwanted calls and consumer complaints ("Consumer Complaints at the FCC") (complaint narratives are not provided). Some databases and data sets include reports from both consumers and manufacturers, such as the Food and Drug Administration's database of reports of suspected device-associated deaths, serious injuries, and malfunctions ("MAUDE"), as well as its downloadable data sets of adverse events and medication errors ("FAERS").

[2] *See* Executive Office of the President, National Science and Technology Council, Smart Disclosure and Consumer Decision Making: Report of the Task Force on Smart Disclosure 15 (May 30, 2013).

[3] *See generally id; see also* Nathan Cortez, Agency Publicity in the Internet Era 44–45 (Sept. 25, 2015) (report to the Administrative Conference of the United States), *https://www.acus.gov/report/agency-publicity-internet-era-report* (discussing disclaimers provided by Food and Drug Administration on the accuracy and reliability of data in MAUDE and FAERS databases).

authenticated by the agency, and any procedures used to do so;

2. permit entities publicly identified in consumer complaints databases or downloadable data sets to respond, as practicable, or request corrections or retractions, as appropriate; and

3. give appropriate consideration to privacy interests.

Administrative Conference Recommendation 2016–2

Aggregation of Similar Claims in Agency Adjudication

Adopted June 10, 2016

Federal agencies in the United States adjudicate hundreds of thousands of cases each year—more than the federal courts. Unlike federal and state courts, federal agencies have generally avoided aggregation tools that could resolve large groups of claims more efficiently. Consequently, in a wide variety of cases, agencies risk wasting resources in repetitive adjudication, reaching inconsistent outcomes for the same kinds of claims, and denying individuals access to the affordable representation that aggregate procedures promise. Now more than ever, adjudication programs, especially high volume adjudications, could benefit from innovative solutions, like aggregation.[1]

The Administrative Procedure Act (APA)[2] does not provide specifically for aggregation in the context of adjudication, though it also does not foreclose the use of aggregation procedures. Federal agencies often enjoy broad discretion, pursuant to their organic statutes, to craft procedures they deem "necessary and appropriate" to adjudicate the cases and claims that come before them.[3] This broad discretion includes the ability to aggregate common cases, both formally and informally. Formal aggregation involves permitting one party to represent many others in a single proceeding.[4] In informal aggregation, different claimants with very similar claims pursue a separate case with separate counsel, but the agency assigns them to the same adjudicator or to the same docket, in an effort to expedite the cases, conserve resources, and ensure consistent outcomes.[5]

Yet, even as some agencies face large backlogs, few have employed such innovative tools. There are several possible explanations for this phenomenon. The sheer number of claims in aggregate agency adjudications may raise concerns of feasibility, legitimacy, and accuracy because aggregation could (1) create diseconomies of scale by inviting even more claims that further stretch the agency's capacity to adjudicate; (2) negatively affect the perceived legitimacy of the process; and (3) increase the consequence of error.

Notwithstanding these risks, several agencies have identified contexts in which the benefits of aggregation, including producing a pool of information about recurring problems, achieving greater equality in outcomes, and securing the kind of expert assistance high volume adjudication attracts, outweigh the costs.[6] Agencies have also responded to the challenges of aggregation by (1) carefully piloting aggregation procedures to improve output while avoiding creation of new inefficiencies; (2) reducing potential allegations of bias or illegitimacy by relying on panels, rather than single adjudicators, and providing additional opportunities for parties to voluntarily participate in the process; and (3) allowing cases raising scientific or novel factual questions to "mature"[7]—that is, putting off aggregation until the agency has the benefit of several opinions and conclusions from different adjudicators about how a case may be handled expeditiously.

The Administrative Conference recognizes aggregation as a useful tool to be employed in appropriate circumstances. This recommendation provides guidance and best practices to agencies as they consider whether or how to use or improve their use of aggregation.[8]

Recommendation

1. Aggregate adjudication where used should be governed by formal or informal aggregation rules of procedure consistent with the APA and due process.

Using Alternative Decisionmaking Techniques

2. Agencies should consider using a variety of techniques to resolve claims with common issues of fact or law, especially in high volume adjudication programs. In addition to the aggregate adjudication procedures discussed in paragraphs 3–10, these techniques might include the designation of individual decisions as "precedential," the use of rulemaking to resolve issues that are appropriate for generalized resolution and would otherwise recur in multiple adjudications, and the use of declaratory orders in individual cases.

Determining Whether To Use Aggregation Procedures

3. Agencies should take steps to identify whether their cases have common claims and issues that might justify adopting rules governing aggregation. Such steps could include:

a. Developing the information infrastructure, such as public centralized docketing, needed for agencies and parties to identify and track cases with common issues of fact or law;

b. Encouraging adjudicators and parties to identify specific cases or types of cases that are likely to involve common issues of fact or law and therefore prove to be attractive candidates for aggregation; and

c. Piloting programs to test the reliability of an approach to aggregation before implementing the program broadly.

4. Agencies should develop procedures and protocols to assign similar cases to the same adjudicator or panel of adjudicators using a number of factors, including:

a. Whether coordination would avoid duplication in discovery;

b. Whether it would prevent inconsistent evidentiary or other pre-hearing rulings;

c. Whether it would conserve the resources of the parties, their representatives, and the agencies; and

d. Where appropriate, whether the agencies can accomplish similar goals by using other tools as set forth in paragraph 2.

5. Agencies should develop procedures and protocols for adjudicators to determine whether to formally aggregate similar claims in a single proceeding with consideration of the principles and procedures in Rule 23 of the Federal Rules of Civil Procedure, including:

a. Whether the number of cases or claims are sufficiently numerous and similar to justify aggregation;

b. Whether an aggregate proceeding would be manageable and materially advance the resolution of the cases;

c. Whether the benefits of collective control outweigh the benefits of individual control, including whether adequate counsel is available to represent the parties in an aggregate proceeding;

d. Whether (or the extent to which) any existing individual adjudication has (or related adjudications have) progressed; and

e. Whether the novelty or complexity of the issues being adjudicated would benefit from the input of different adjudicators.

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[1] Other related techniques that can help resolve recurring legal issues in agencies include the use of precedential decisions, declaratory orders as provided in 5 U.S.C. 554(e), and rulemaking. With respect to declaratory orders, see Recommendation 2015–3, *Declaratory Orders*, 80 FR 78,163 (Dec. 16, 2015), *available at https://www.acus.gov/recommendation/declaratory-orders*. The Supreme Court has recognized agency authority to use rulemaking to resolve issues that otherwise might recur and require hearings in adjudications. *See Heckler* v. *Campbell*, 461 U.S. 458 (1983).

[2] *See* Administrative Procedure Act, Public Law 79–404, 60 Stat. 237 (1946) (codified as amended at 5 U.S.C. 551–559, 701–706 and scattered sections in Title 5).

[3] Broad discretion exists both in "formal adjudication," where the agency's statute requires a "hearing on the record," triggering the APA's trial-type procedures, and in "informal adjudication," where the procedures set forth in APA §§ 554, 556 & 557 are not required, thus allowing less formal procedures (although some "informal adjudications" are nevertheless quite formal).

[4] This recommendation does not address formal aggregation of respondents or defendants in proceedings before agencies.

[5] The American Law Institute's *Principles of the Law of Aggregation* defines proceedings that coordinate separate lawsuits in this way as "administrative aggregations," which are distinct from joinder actions (in which multiple parties are joined in the same proceeding) or representative actions (in which a party represents a class in the same proceeding). *See* American Law Institute, Principles of the Law of Aggregate Litigation § 1.02 (2010) (describing different types of aggregate proceedings).

[6] *See* Michael Sant'Ambrogio & Adam Zimmerman, Aggregate Agency Adjudication 27–65 (June 9, 2016), *available at https://www.acus.gov/report/aggregate-agency-adjudication-final-report* (describing three examples of aggregation in adjudication).

[7] *Cf.* Francis E. McGovern, *An Analysis of Mass Torts for Judges*, 73 Tex. L. Rev. 1821 (1995) (defining "maturity" in which both sides' litigation strategies are clear, expected outcomes reach an "equilibrium," and global resolutions or settlements may be sought).

[8] This recommendation covers both adjudications conducted by administrative law judges and adjudications conducted by non-administrative law judges.

Structuring the Aggregate Proceeding

6. Agencies that use aggregation should ensure that the parties' and other stakeholders' interests are adequately protected and that the process is understood to be transparent and legitimate by considering the use of mechanisms such as:

a. Permitting interested stakeholders to file amicus briefs or their equivalent;

b. Conducting "fairness hearings," in which all interested stakeholders may express their concerns with the proposed relief to adjudicators in person or in writing;

c. Ensuring that separate interests are adequately represented in order to avoid conflicts of interest;

d. Permitting parties to opt out in appropriate circumstances;

e. Permitting parties to challenge the decision to aggregate in the appeals process, including an interlocutory appeal to the agency; and

f. Allowing oral arguments for amici or amicus briefs in agency appeals.

7. Agencies that use aggregation should develop written and publicly available policies explaining how they initiate, conduct, and terminate aggregation proceedings. The policies should also set forth the factors used to determine whether aggregation is appropriate.

8. Where feasible, agencies should consider assigning a specialized corps of experienced adjudicators who would be trained to handle aggregate proceedings, consistent with APA requirements where administrative law judges are assigned. Agencies should also consider using a panel of adjudicators from the specialized corps to address concerns with having a single adjudicator decide cases that could have a significant impact. Agencies that have few adjudicators may need to "borrow" adjudicators from other agencies for this purpose.

Using Aggregation To Enhance Control of Policymaking

9. Agencies should make all decisions in aggregate proceedings publicly available. In order to obtain the maximum benefit from aggregate proceedings, agencies should also consider designating final agency decisions as precedential if doing so will:

a. Help other adjudicators handle subsequent cases involving similar issues more expeditiously;

b. Provide guidance to future parties;

c. Avoid inconsistent outcomes; or

d. Increase transparency and openness.

10. Agencies should ensure the outcomes of aggregate adjudication are communicated to policymakers or personnel involved in rulemaking so that they can determine whether a notice-and-comment rulemaking proceeding codifying the outcome might be worthwhile. If agencies are uncertain they want to proceed with a rule, they might issue a notice of inquiry to invite interested parties to comment on whether the agencies should codify the adjudicatory decision (in whole or in part) in a new regulation.

[FR Doc. 2016–14636 Filed 6–20–16; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed New Special Recreation Permit Fee

AGENCY: Wallowa-Whitman National Forest, USDA Forest Service.

ACTION: Notice of proposed new special recreation permit fee.

SUMMARY: The Wallowa-Whitman National Forest is proposing to implement a Special Recreation Permit Fee on the Wild and Scenic Snake River which flows between Oregon and Idaho. Implementing a Special Recreation Permit Fee would allow the Forest Service to manage the specialized recreation use associated with float and power boating on the Wild and Scenic Snake River, and result in improved services and experiences. Fees are assessed based on the level of amenities and services provided, cost of operation and maintenance of river-related facilities, market assessment, and public comments received.

Boaters using the Wild and Scenic Snake River would be subject to a Special Recreation Permit Fee (boater-use permit fee) of $5.00 to $10.00 per person that would be collected from all private and commercial boaters and their occupants. The implementation of the fee on the Wild and Scenic Snake River is comparable to other federal day-use fees within the current Four Rivers reservation system for the Selway, Middle Fork Salmon, Main Salmon and other sections of the Snake Rivers. The area subject to the fee is the Snake River beginning at Hells Canyon Dam to Cache Creek Ranch (approximately 70 miles).

The exceptions to this boater-use permit fee are:

- Travel by private, noncommercial boat to any land in which the person has property rights.
- Any person who has right of access for hunting or fishing privileges under specific provisions of treaty or law.
- Individual outfitter/guides and their associated employees, while acting in an official capacity under the terms of their permit.

At this time there is no boater-use permit fee on the Wild and Scenic Snake River for float or power boats. Boater-use for private float and power boats is currently managed though a national reservation system, which limits the amount of boats during the primary use season to meet management plan direction. A $6.00 transaction cost is associated with this reservation permit and is completely retained by the reservation contractor. In the future the reservation permit fee will be continued in conjunction with the application of this proposed boater-use permit fee for private boaters.

At this time the listed boater-use permit fee is only a proposal and further analysis and public comment will occur before a decision is made. Funds from the proposed fee would be used for administrative and operational needs in the recreation area to enhance user experience and safety, sustain natural and cultural resources, and facility maintenance and improvements.

DATES: New fees would begin after, and contingent upon a review and recommendation by the John Day-Snake River Resource Advisory Council and approval by the Regional Forester for the Pacific Northwest Region. All comments should be received no later than 60 days from publication of this notice in the **Federal Register**. The publication date of this Notice in the **Federal Register** is the exclusive means for calculating the comment period for this proposal. Those wishing to comment should not rely upon dates or timeframe information provided by any other source.

Public Open House: A series of public open houses are scheduled to answer questions brought forth by the public.

The open house dates are:

1. July 5, 2016, 6 p.m. to 8 p.m., Boise, ID.
2. July 6, 2016, 6 p.m. to 8 p.m., Riggins, ID.
3. July 7, 2016, 6 p.m. to 8 p.m., Clarkston, WA.
4. July 8, 2016, 6 p.m. to 8 p.m., Joseph, OR.

ADDRESSES: Send written comments to: Jacob Lubera, Deputy District Ranger, Wallowa-Whitman National Forest, 201 East Second Street, P.O. Box 905, Joseph, Oregon 97846. Comments may also be faxed to 541–426–4978. Comments may be hand-delivered to the above address Monday through Friday, from 8 a.m. till 4:30 p.m., excluding legal holidays.

Electronic Comments: Electronic comments must be submitted in a format such as an email message, plain text (.txt), rich text format (.rtf), or Word (.docx) to *comments-pacificnorthwest-wallowa-whitman@fs.fed.us*. Emails submitted to email addresses other than the one listed above, in other formats than those listed, or containing viruses will be rejected. Comments can also be submitted at *http://www.fs.usda.gov/detail/wallowa-whitman/specialplaces/?cid=fseprd481691*. It is the responsibility of persons providing comments to submit them by the close of the comment period and ensure that their comments have been received.

FOR FURTHER INFORMATION CONTACT: Jacob Lubera, Deputy District Ranger, 541–426–5581, *jlubera@fs.fed.us,* or *http://www.fs.usda.gov/detail/wallowa-whitman/specialplaces/?cid=stelprd3854363.*

SUPPLEMENTARY INFORMATION: The Federal Recreation Lands Enhancement Act (Title VII, Pub. L. 108–447) directed the Secretary of Agriculture to publish a six month advance notice in the **Federal Register** whenever new recreation fee areas are established.

Once public involvement is complete, these new fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation.

Dated: June 14, 2016.

Jacob S. Lubera,

Deputy District Ranger.

[FR Doc. 2016–14471 Filed 6–20–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

National Agricultural Library

Notice of Intent To Seek Approval To Collect Information

AGENCY: National Agricultural Library, Agricultural Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and the Office of Management and Budget (OMB) regulations at 5 CFR part 1320, this notice announces the National Agricultural Library's (NAL) intent to request renewal of an information collection to obtain an evaluation of user satisfaction with NAL Internet sites.

DATES: Comments on this notice must be received by August 22, 2016 to be assured of consideration.

ADDRESSES: You may submit comments by any of the following methods:

- *Email: Ricardo.S.Romero@ars.usda.gov.*
- *Fax:* 301–504–7042 attention Ricardo Romero.

1. *Mail/Hand Delivery/Courier:* National Agricultural Library, 10301 Baltimore Avenue, Room 115–B, Beltsville, Maryland 20705–2351.

FOR FURTHER INFORMATION CONTACT: Ricardo Romero at 301–504–5066.

SUPPLEMENTARY INFORMATION:

Title: "Evaluation of User Satisfaction with NAL Internet Sites."

OMB No.: 0518–0040.

Expiration Date: N/A.

Type of Request: Approval for renewed data collection.

Abstract: This is a request, made by NAL Office of the Director Office of the Associate Director of Information Services, that the OMB approve, under the Paperwork Reduction Act of 1995, a 3 year generic clearance for the NAL to conduct user satisfaction research around its Internet sites. This effort is made according to Executive Order 12862, which directs federal agencies that provide significant services directly to the public to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services.

The NAL Internet sites are a vast collection of Web pages. NAL Web pages are visited by an average of 8.6 million people per month. All NAL Information Centers have an established web presence that provides information to their respective audiences.

Description of Surveys

The online surveys will be no more than 15 Semantic Differential Scale or multiple-choice questions, and no more than four open-ended response questions.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per survey.

Respondents: The agricultural community, USDA personnel and their cooperators, and including public and private users or providers of agricultural information.

Estimated Number of Respondents: 1000 per year.

Estimated Total Annual Burden on Respondents: 60 hours.

Comments

The purpose of the research is to ensure that intended audiences find the information provided on the Internet sites easy to access, clear, informative, and useful. Specifically, the research will examine whether the information is presented in an appropriate technological format and whether it meets the needs of users of these Internet sites. The research will also provide a means by which to classify visitors to the NAL Internet sites, to better understand how to serve them. It is estimated that participants will require no more than 5 minutes to complete each survey. Actual time required will vary based on participant reading rate. Sample questions may include:

Functionality	Please rate the accuracy of information on this site.
	Please rate the quality of information on this site.
	Please rate the freshness of content on this site.
	Please rate the usefulness of the information provided on this site.
	Please rate the convenience of the information on this site.
	Please rate the ability to accomplish what you wanted to on this site.
Look and Feel	Please rate the ease of reading this site.
	Please rate the clarity of site organization.
	Please rate the clean layout of this site.
Navigation	Please rate the degree to which the number of steps it took to get where you want is acceptable.
	Please rate the ability to find information you want on this site.

Comments should be sent to the address in the preamble.

Dated: June 13, 2016.

Simon Y. Liu,

Associate Administrator, ARS.

[FR Doc. 2016–14604 Filed 6–20–16; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Announcement of Loan Application Procedures, and Deadlines for the Rural Energy Savings Program (RESP)

AGENCY: Rural Development, Rural Utilities Service, USDA.

ACTION: Notice of Solicitation for Applications (NOSA); the RESP Application Process and Deadlines.

SUMMARY: The Rural Utilities Service (RUS), an agency of the United States Department of Agriculture (USDA), is soliciting letters of intent for loan applications under the Rural Energy

Savings Program (RESP), announcing the application process for those loans and deadlines for applications from eligible entities. These loans are made available under the authority of Section 6407 of the Farm Security and Rural Investment Act of 2002, as amended, (Section 6407). This notice describes the eligibility requirements, the application process and deadlines, the criteria that will be used by RUS to assess Applicants' creditworthiness, and how to obtain application materials.

DATES: The application process consists of two steps. To be considered for this funding, Applicants must submit their documentation no later than the mandatory dates set forth herein. Failure to comply with both of the following deadlines will prevent RUS from considering the Applicant for financial assistance in FY 2016.

Step 1: To be considered for financing in this fiscal year, an Applicant seeking financing must submit a Letter of intent to apply, as provided herein, in an electronic Portable Document Format (PDF) by electronic mail (email) to *RESP@wdc.usda.gov* no later than 11:59 p.m. (EST) on August 5, 2016. Late or incomplete Letters of Intent will not be considered by RUS.

Step 2: An RESP Applicant that has been invited in writing by RUS to proceed with the loan application, as provided in this NOSA, will have up to sixty (60) calendar days to complete the documentation for a complete application. The sixty (60) day timeframe will begin from the date the RESP Applicant receives an email with RUS' Invitation to proceed. If the deadline to submit the completed application falls on Saturday, Sunday, or a Federal holiday, the application is due the next business day. Instructions on how to electronically submit the loan application package will be included in the RUS Invitation to proceed to the RESP Applicant.

ADDRESSES: Copies of this NOSA and other information on the Rural Energy Savings Program may be obtained by:

(1) Contacting Titilayo Ogunyale at (202) 720–0736 to request a copy of this Notice.

(2) Sending an electronic mail (email) to *Titilayo.Ogunyale@wdc.usda.gov.* The email must be identified as RESP Notice of Solicitation for Applications in the subject field.

(3) The Letter of intent must be submitted by the Applicant in an electronic PDF (PDF) not to exceed 10 Megabytes (10 MB) by electronic mail (email) to *RESP@WDC.USDA.GOV* on or before the deadline set forth herein. No paper letters of intent will be accepted.

(4) The completed loan application package must be submitted electronically following the instructions that will be outlined in the RUS Invitation to proceed to the RESP Applicant. The loan application package must be marked with the subject line "Attention: Titilayo Ogunyale, Senior Advisor; RESP Loan Application."

FOR FURTHER INFORMATION CONTACT: Titilayo Ogunyale, Senior Advisor, Office of the Administrator, Rural Utilities Service, Rural Development, United States Department of Agriculture, 1400 Independence Avenue SW., STOP 1510, Room 5136–S, Washington DC 20250–1510; Telephone: (202) 720–0736; Email: *Titilayo.Ogunyale@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Utilities Service (RUS), USDA.

Funding Opportunity Title: Rural Energy Savings Program (RESP).

Announcement Type: Requests for Letter of intent and Applications.

Catalog of Federal Domestic Assistance (CFDA) No.: 10.751.

Dates: Submit the Letter of intent on or before August 5, 2016 and the completed loan application package on or before sixty (60) days from the receipt date of a written RUS Invitation to proceed.

Administrative Procedure Act Statement

This NOSA is being issued without advance rulemaking or public comment. The Administrative Procedure Act of 1946, as amended (5 U.S.C. 553) (APA), has several exemptions to rulemaking requirements. Among them is an exception for a matter relating to "loans, grants, benefits, or contracts." Furthermore, the 30 day effective date policy is excepted for "good cause."

USDA has determined, consistent with the APA that making these funds available under this NOSA for the RESP program is in the public interest since the Consolidated Appropriations Act, 2016, (Pub. L. 114–113) appropriated a budget authority of $8,000,000 on the condition that the Agency launch RESP during the current fiscal year. In order to do this, the Agency decided to move forward with developing procedures for RESP within a NOSA instead of rulemaking in order to meet the statutory mandate to implement this new program. The Agency intends to test this new program this year with available funds under this NOSA and implement a permanent rule based on its findings.

Information Collection and Recordkeeping Requirements

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), OMB approved an emergency information collection request on RESP so RUS can begin the application period in the timeframe noted in this notice. RUS invites comments on this information collection. Comments on this notice of information collection must be received by August 22, 2016.

Comments are invited on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Thomas P. Dickson, Acting Director, Program Development and Regulatory Analysis, USDA Rural Utilities Service, 1400 Independence Avenue SW., STOP 1522, Room 5164, South Building, Washington, DC 20250–1522. Telephone: (202) 690–4492. FAX: (202) 720–8435. Email: *Thomas.Dickson@wdc.usda.gov.*

Title: Rural Energy Savings Program.

OMB Control No.: 0572–0151.

Type of Request: New Collection.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 6.39 hours per response.

Respondents: For-profit institutions, Not-for-profit institutions, State, Local or Tribal Government.

Estimated number of Respondents: 20.

Estimated Number of Responses per Respondent: 10.6.

Estimated Total Annual Burden on Respondents: 1,354.

Copies of this information collection can be obtained from Rebecca Hunt, Program Development and Regulatory Analysis, at (202) 205–3660, FAX (202) 720–8435 or email: *Rebecca.Hunt@wdc.usda.gov.*

Abstract: The collection of information consists of the items required to be submitted to the agency as part of the Letter of Intent and the application package. Entities seeking funding under this program will have to submit applications that include information establishing applicant and project eligibility, certifications that the applicant is a legal entity in good standing (as applicable), and operating in accordance with the laws of the state(s) where the applicant has a place of business, and agreements that are required for similar loan programs. The collection of information is vital for the agency to make informed decisions regarding the eligibility of borrowers and to ensure that funds obtained from the Government under the program are used appropriately (*e.g.,* used for the purposes for which the loans were awarded).

Definitions and Rules of Grammatical Construction

For the purpose of RESP, the following terms must have the following meanings:

Administrator means the Administrator of the Rural Utilities Service, an agency under the Rural Development mission area of the United States Department of Agriculture.

Applicant means an Eligible entity interested in applying for a RESP that is planning to submit a Letter of intent.

Commercially available technology means equipment, devices, applications, or systems that have a proven, reliable performance and replicable operating history specific to the proposed application. The equipment, device, application or system is based on established patented design or has been certified by an industry-recognized organization and subject to installation, operating, and maintenance procedures generally accepted by industry practices and standards. Service and replacement parts for the equipment, device, application or system must be readily available in the marketplace with established warranty applicable to parts, labor and performance.

Complete application means an application containing all information required by RUS to approve a loan and that is materially complete in form and substance satisfactory to RUS within the specified time.

Conditional commitment letter means the notification issued by the Administrator to an RESP Applicant advising it of the total loan amount approved for it as a RESP borrower, the acceptable security arrangement, and such controls and conditions on the RESP borrower's financial, investment, operational and managerial activities deemed necessary by the Administrator to adequately secure the Government's interest. This notification will also describe the accounting standards and audit requirements applicable to the transaction.

Conflict of interest means a situation or situations, event or series of events, that jointly or severely undermines an individual's judgement, ability, or commitment to providing an accurate, unbiased, fair and reliable assessment or determination about the cost-effectiveness of the Energy efficiency measures due to self-interest or cannot be justified by the prevailing and sound application of the generally accepted standards and principles of the industry.

Eligible entity means an entity described in section C.1. of this NOSA.

Energy audit means an inspection and analysis of energy flows in a building, process, or system with the goal of identifying opportunities to enhance energy efficiency. The activity should result in an objective standard-based technical report containing recommendations on the Energy efficiency measures to reduce energy costs or consumption of the Qualified consumer and an analysis of the estimated benefits and costs of pursuing each recommendation in a payback period not to exceed 10 years.

Energy efficiency measures means for or at property served by an Eligible entity, structural improvements and investments in cost-effective, commercially available technologies to increase energy efficiency. The improvements and investments must be for the purpose of decreasing the Qualified consumer's energy usage or costs.

Energy efficiency program (EE Program) means a program set up by an Eligible entity to provide financing to Qualified consumers so that they can reduce their energy use or costs by implementing energy efficiency measures.

Financial feasibility means an Eligible entity's ability to generate sufficient revenues to cover its expenses, sufficient cash flow to service its debts and obligations as they come due, and meet the financial ratios set forth in the applicable loan documents.

Invitation to proceed means the written notification issued by RUS to the Eligible entity acknowledging that the Letter of intent was received and reviewed, describing the next steps in the application process and inviting the Eligible entity to submit a complete application.

Letter of intent means a signed letter issued by an Applicant of notifying RUS of its intent to apply for a RESP loan and addressing all the elements identified in section D.2.a. of this NOSA.

Qualified consumer means a consumer served by an Eligible entity that has the ability to repay a loan made by an RESP borrower under the RESP program, as determined by the Eligible entity.

RESP applicant means an Eligible entity that has received a written Invitation to proceed from RUS to apply for a RESP loan.

RESP borrower means an Eligible entity with an approved RESP loan.

Small business means an entity that is in accordance with the Small Business Administration's (SBA) small business size standards found in 13 CFR part 121.

Special advance means an advance, not to exceed 4 percent of the total approved loan amount, that a RESP borrower may request to defray the start-up costs of establishing a new EE Program.

Start-up costs mean amounts paid or incurred for: (a) Creating or implementing an active energy efficiency program; or (b) investing in the integration of an active energy efficiency program. Start-up costs may include, but are not limited to, amounts paid or incurred in the analysis or survey of potential markets, products such as software and hardware, labor supply, consultants, salaries and other working capital directly related to creation or enhancement of an energy efficiency program consistent with RESP.

With regard to the rules of grammatical construction, unless the context otherwise indicates, "includes" and "including" are not limiting, and "or" is not exclusive.

Additional Items in Supplementary Information

A. Program Description
B. Federal Award Information
C. Eligibility Information
D. Application and Submission Information
E. Agency Review of Letter of Intent and Loan Application
F. Federal Award Administration Information
G. Federal Awarding Agency Contact
H. Other Information

A. Program Description

The USDA through the Rural Utilities Service (RUS) provides RESP loans to Eligible entities that agree to, in turn, make loans to Qualified consumers for the purpose of implementing Energy efficiency measures. These loans are made available under the authority of Section 6407. Eligible Energy efficiency measures funded under this NOSA must be for or at a property or properties served by an RESP borrower, using commercially available technologies that would allow Qualified consumers to decrease their energy use or costs through cost-effective measures including structural improvements to the property. Loans made by RESP borrowers under this program may be repaid through charges added to the Qualified consumer's bill for the property or properties for, or at which, energy efficiencies are or will be implemented. The purpose of the program is to help rural families and small businesses achieve cost savings by providing loans to Qualified consumers to implement durable cost-effective Energy efficiency measures.

It is to be noted that RESP and the Energy Efficiency and Conservation Loan Program (EECLP), 7 CFR 1710 Subpart H, are two separate energy efficiency programs that are both operated by RUS. These programs are distinct, however, the re-lending provisions of RESP are targeted at directly supporting EE actions undertaken by a more specific set of Qualified consumers. An additional distinction is that because the EECLP loan program level is anticipated at being significantly higher than that of RESP, entities seeking larger EE loans can pursue funding through EECLP. Also, applicants to RESP need not be utilities as in the case for EECLP. As a result, RUS anticipates that the primary applicants for RESP will be cooperatives with smaller-scale EE programs and non-traditional borrowers seeking lower loan levels that what is typically sought through EECLP.

B. Federal Award Information

Type of Award: Loan.

Fiscal Year 2016 Funds: $8,000,000 in budget authority with the loan program level yet to be determined.

Authority: RESP is a new program to be carried out by the Rural Utilities Service pursuant to Section 6407 of the Farm Security and Rural Investment Act of 2002, 7 U.S.C. 8107a, as amended; and Section 744, Title VII, Division A of the Consolidated Appropriations Act of 2016, Public Law 114–113, December 18, 2015.

C. Eligibility Information

1. Eligible Entities Include

a. Any public power district, public utility district, or similar entity, or any electric cooperative described in section 501(c)(12) or 1381(a)(2) of the Internal Revenue Code of 1986, that borrowed and repaid, prepaid, or is paying an electric loan made or guaranteed by the Rural Utilities Service (or any predecessor agency);

b. Any entity primarily owned or controlled by 1 or more entities described in section C.1.a. of this NOSA; and

c. Any other entity that is an eligible borrower of the Rural Utilities Service, as determined under 7 CFR 1710.101.

2. Equity Contributions

a. To be eligible for a RESP loan, a newly created Eligible entity or an entity primarily owned or controlled by one (1) or more entities described in section C.1.a. of this NOSA must have a minimum equity position in the EE Program proposed to be funded with RESP at the time of the loan closing. The required equity position will be determined by the Administrator on a case-by-case basis based upon review of the risk profile of the Eligible entity and other security arrangements.

b. If the Administrator determines that the RESP Applicant under this section does not have acceptable equity, in the Energy Efficiency Program at the time of application, the Administrator may consider the following to meet such shortfall regarding equity:

i. The infusion of additional capital into the Energy efficiency program by an Investor to meet any shortfall. RUS may require that the additional capital be deposited into a RESP Applicant's special account subject to a deposit account control agreement with RUS prior to loan closing.

ii. An unconditional, irrevocable letter of credit satisfactory to the Administrator in the amount of the shortfall. RUS must be an unconditional payee under the letter of credit and the letter of credit must be in place prior to loan closing and remain in place until the loan is repaid.

iii. General obligation bonds issued by tribal, state or local governments in the amount of the shortfall. If the equity requirement is satisfied with general obligation bonds, any lien securing the bonds must be subordinate to the lien of the government securing the RESP loan.

iv. Any other equity requirements determined necessary by the Administrator to meet the shortfall.

3. Other

An Applicant may not submit more than one application in this funding cycle for the same EE Program. However, one or more Eligible entities may submit their applications using the same EE Program model.

D. Application and Submission Information

1. Sample Letter of Intent

Interested parties may send an email to the contact listed in **FOR FURTHER INFORMATION CONTACT** section of this NOSA to obtain an electronic sample of the Letter of intent. The sample Letter of intent can also be found online using the following web address: *http://www.rd.usda.gov/resp/*.

2. Content of Letter of Intent and RESP Application

Complete applications for loans to Eligible entities under this NOSA will be processed on a first-come-first-serve basis (queue) until funds appropriated to carry out RESP are expended. Applicants must submit the required information for Step 1, "Letter of intent," (see paragraph a below), and upon a written Invitation to proceed from RUS must submit the required information for Step 2, "Application," (see paragraph b). Loan applications for RESP funds will be processed in a two-step approach as described herein. Applicants must submit all the information identified in the Letter of intent "Evaluation Criteria Checklist" available online at the following web address: *http://www.rd.usda.gov/resp//*

a. *Step 1—Letter of intent.* An Applicant interested in applying for a RESP loan must submit a Letter of intent to RUS. The following information must be included in the Letter of intent:

i. The description of the project must not exceed five pages (size 8.5 × 11) and must include the following:

A. A description of the service to be provided to Qualified consumers.

B. Identity of the staff or contractors that will be implementing the EE Program and their credentials.

C. Implementation Plan that Briefly Addresses.

(1) The marketing strategy.

(2) How the Applicant will operate the relending process.

(3) A schedule showing sources and uses of funds to implement the EE Program.

(4) A brief description of the processes, procedures, and capabilities to quantify and verify the reduction in energy consumption or decrease in the energy costs of the Qualified consumers.

D. A List of Eligible Energy Efficiency Measures that will be Implemented.

ii. The Applicant must submit a copy of its balance sheet for the last 3 years. If applicable, the Applicant must provide the balance sheet for the last 3 years of the entity or entities providing equity or security for the RESP loan together with an explanation of the legal relationship among the legal entities.

iii. The Applicant must provide evidence of its performance measures and indicators for the 5 complete years prior to the submission of the loan application if the total loan amount exceeds 5 million dollars.

An Applicant with an existing EE Program in place by April 8, 2014, may describe the Energy efficiency measures, its implementation plan and its measurement and verification system for the existing program in its Letter of intent to expedite the application process.

b. *Step 2—Loan Application.* Upon delivery of an Invitation to proceed, RUS will assign a General Field Representative (GFR) to assist the RESP Applicant during step 2 of the application process. The RESP Applicant's application package must include the following documents:

i. Cover Letter. A signed cover letter from the RESP Applicant's General Manager or highest ranking officer requesting a RESP loan under this NOSA.

ii. Board Resolution. A signed copy of the board resolution or applicable authorizing document approving and establishing the EE Program.

iii. Environmental Compliance Agreement. A copy of the duly executed Multi-tier Action Environmental Compliance Agreement (Multi-tier Agreement). A template of a Multi-tier Agreement can be found in Exhibit H of RD Instruction 1970–A, Environmental Policies and Procedures (*http://www.rd.usda.gov/files/1970a.pdf*). A copy of the Multi-tier Agreement will be provided to the RESP Applicant with the Invitation to proceed.

iv. Long-Range Financial Forecast. A long-range financial forecast approved by the applicable governing body of the RESP Applicant in support of its loan application. RUS encourages RESP Applicants to follow the format set forth in RUS Form 325, which may be obtained from a GFR. The financial forecast must cover a period of at least 10 years and must demonstrate that the RESP Applicant's operation is economically viable and that the proposed loan is financially feasible. RUS may request projections for a longer period of time if RUS deems it necessary based on the financial structure of the RESP Applicant. The financial forecast and related projections submitted in support of a loan application must include:

A. The financial goals established for margins, debt service coverage, equity, and levels of general funds to be invested in the EE Program.

B. A pro forma balance sheet, statement of operations, and general funds summary projected for each year during the forecast period.

C. A full explanation of the assumptions, supporting data, and analysis used in the forecast, including the methodology used to project revenues, rates (if applicable), operating expenses, power costs (if applicable), and any other factors having a material effect on the balance sheet and the financial ratios such as equity and debt service coverage. The explanation should include a discussion of the historical experience of the RESP Applicant with respect to its's market competitiveness. RUS may require additional data and analysis on a case-by-case basis to assess the probable future competitiveness of the RESP Applicant.

D. Current and projected cash flows.

E. Projections of future borrowings and the associated interest and principal expenses required to meet the projected investment requirements of the RESP Applicant.

F. Current and projected kW and kWh energy sales (if applicable).

G. Current and projected unit prices of significant variables such as retail and wholesale power prices, average labor costs, and interest (if applicable).

H. When applicable, current and projected system operating costs, including, but not limited to, wholesale power costs, depreciation expenses, labor costs and debt service costs.

I. Current and projected revenues from sales of services, including but not limited to, electric power and energy (if applicable).

J. Current and projected non-operating income and expense.

K. A sensitivity analysis may be required by RUS on a case-by-case basis taking into account such factors as the number and type of loads (if applicable), projections of future borrowings and the associated interest, projected loads, projected revenues, and probable future competitiveness of the RESP Applicant. RUS may request the RESP Applicant to factor in other elements in its sensitivity analysis.

L. The financial forecast must use the accrual method of accounting for analyzing costs and revenues and, as applicable, compare the economic results of the various alternatives on a present value basis.

M. When applicable, the financial forecast must include the expenditures for any maintenance determined to be needed in the current system's operation and maintenance review and evaluation in order to comply with the covenants in the loan documents.

N. An itemized budget for the activities to be implemented with the RESP funds and a discussion on how the loan loss reserve will be set up.

v. EE Program Implementation Work Plan (IWP). The RESP Applicant must produce, to the satisfaction of the Administrator, an IWP duly approved by the applicable governing body of the Eligible entity. A RESP Applicant may submit evidence of the credentials of a third party retained, or to be retained, to carry out the EE program. The statement of qualifications must show the party's experience carrying out the financial and technical expertise components of an EE program at the desired scale. The IWP must:

A. Describe the expected schedule to implement the EE Program with an itemized allocation of expected resources including anticipated costs assigned to each task.

B. Project the expected amount of loans made by the RESP Applicant to the Qualified consumers over the next 10 years.

C. Identify the anticipated amount of special advance for start-up costs and purposes over the expected schedule to draw down the funds attributable to such purposes.

D. Describe the schedule and the mechanism to fund the loan loss reserve. In addition, it must describe how the RESP Applicant will be using the revenues from the interest rate charged to the Qualified consumers.

E. Only include those activities and investments in an approved application as provided in the Multi-tier Agreement executed between RUS and the RESP Applicant.

F. Address all the following core elements:

(1) Marketing. In this section the RESP Applicant will identify the qualified customers by market segment that will benefit from the funding available under this NOSA and explains the marketing and outreach efforts to be executed in implementing the relending program. In the identification of the marketing effort to the qualified customers, the RESP Applicant should provide racial and ethnic demographics for the service area or individuals.

(2) Operations. In this section the RESP Applicant will describe its energy efficiency program and how it will operate the relending process. The RESP Applicant must describe the Energy efficiency measures that it will fund and provide an estimate of the dollar amount of investment for each category of investments and/or activities. The RESP Applicant must also identify the staff that will be implementing the program and whether or not it will be outsourcing some or all of the execution of the program. In the event that an RESP Applicant partners with, or outsources to a third party to carry out the EE Program, it must describe the roles of each one of the parties involved in implementing the program and how the RESP Applicant will monitor third

parties for legal and regulatory compliance. The RESP Applicant must describe its expertise to effectively implement Energy efficiency measures at the scale pursued in the EE Program funded by RESP. If the RESP Applicant envisions partnering with a third party or outsourcing the implementation of the energy efficiency loan program, it must adequately describe the credentials of the third party to effectively use Energy efficiency measures at the scale pursued in the EE Program. The RESP Applicant will be held accountable to RUS for actions or omissions of those partners or contractors, arising from or in connection with a program funded under this NOSA. The operational plan must also describe the process for documenting and perfecting collateral arrangements for Qualified consumer loans, if applicable.

(3) Financials. The RESP Applicant must submit a schedule showing sources and uses of funds to implement the EE program. This plan must include an itemized budget for each activity and investment category necessary to carry out the EE Program including, but not limited to, the loan loss reserve, the expected loan delinquency and default rates. The RESP Applicant must describe how it is going to use the interest to be received from the loans to the Qualified consumers—if the RESP Applicant determines to charge interest. RUS may request additional information from an RESP Applicant in order to make its determination regarding loan feasibility and reasonably adequate security for the loan.

(4) Measurement and Verification. The RESP Applicant must describe the processes, procedures, and capabilities to quantify and verify the reduction in energy consumption or decrease in energy costs of the Qualified consumers. An RESP Applicant may provide a measurement and verification plan approved by a state or local regulatory body or sponsored by a governmental entity. A measurement and verification plan developed and certified by an industry recognized professional or entity will also be acceptable. Other measurement and verification plans may be acceptable if the Eligible entity can support, to the satisfaction of the Administrator, that the protocols and methodology used to verify the Energy efficiency measures cost-effective using generally accepted industry principles and standards. An RESP Applicant with an existing EE Program as of April 8, 2014, may submit the measurement and verification plan previously established with this program to fulfill this requirement.

(5) The RESP Applicant must describe the processes and procedures that will be put in place to avoid a Conflict of interest in the implementation of the energy efficiency loan program for Qualified consumers.

vi. An opinion of counsel, acceptable to the Administrator, opining that the RESP Applicant is properly organized and has the required corporate authority to enter into the proposed transaction. It must also identify the proposed collateral to secure the RESP loan and certify that such collateral is free of liens or identify any issues that may arise for the Government regarding the securing and perfecting of a first and prior lien on such property comprising the collateral. If real property owned by the Eligible entity will collateralize the transaction, the counsel's opinion must include a listing of the real property owned by the Eligible entity, the counties where it is located, and must certify that the descriptions in the property schedule are complete and adequate for inclusion in a security instrument to be executed by the Eligible entity to secure the RUS loan.

vii. Articles of incorporation and bylaws or other applicable governing and organizational documents. The RESP Applicant's articles of incorporation or other applicable organizational documents currently in effect, as filed with the appropriate state office, setting forth the RESP applicant's corporate purpose; and the bylaws or other applicable governing documents currently in effect, as adopted by the RESP Applicant's applicable governing body. RESP Applicants that are active RUS borrowers may comply with this requirement by notifying in writing to RUS that there are no material changes to the documents already on file with RUS.

3. Compliance With Other Federal Statutes

The RESP Applicant must provide statement of compliance with other federal statutes, including but not limited to the following:

a. Nondiscrimination in Federally Assisted Programs. 7 CFR part 15, subpart A, Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture-Effectuation on Title VI of the Civil Rights Act of 1964, RUS Bulletin 1790–1, "Nondiscrimination Among Beneficiaries of RUS Program." Eligible entities must complete and submit RUS Form 266, "Assurance Agreement."

b. Standard Form 100—Equal Employment Opportunity Employer Report EEO—1. This form, required by the Department of Labor, sets forth employment data for Eligible entities with 100 or more employees. A copy of this form, as submitted to the Department of Labor, is to be included in the application for an insured loan if the Eligible entity has more than 100 employees.

c. Form AD–1049—Certificate Regarding Drug Free Workplace Requirements. This form is required as prescribed in 2 CFR parts 182 and 421, Requirements for Drug Free Workplace (Financial Assistance). Information on all of your organization's known workplaces by including the actual address of buildings (or parts of buildings) or other sites where work under the award takes place. Workplace identification is required under the drug-free workplace requirements in Subpart B of 2 CFR part 421, which adopts the Government-wide implementation (2 CFR part 182) of the Drug-Free Workplace Act.

d. Form AD–1047—Certification Regarding Debarment, Suspension. This form is required in accordance with 2 CFR part 417 (Nonprocurement Debarment and Suspension) supplemented by 2 CFR part 180, if it applies. See the section heading is "What information must I provide before entering into a covered transaction with the Federal Government?" located at 2 CFR 180.335.

e. Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." For information on limited English proficiency and agency-specific guidance, go to *http://www.LEP.gov.vi.* Lobbying for Grants, Loans, Contracts and Cooperative Agreements. The following information on lobbying is required pursuant to 2 CFR part 418. The RESP Applicant should consult RUS before submitting this information.

f. Report on Federal debt delinquency. This report indicates whether or not the RESP Applicant is delinquent on any Federal debt.

g. Certify Accounting, Auditing, and Reporting Requirements. The RESP Applicant must certify to RUS that it is aware of and will abide by the accounting, auditing, and reporting requirements as described within the Federal Award Administration Information section of this NOSA.

h. Dun and Bradstreet Universal Numbering System (DUNS). The Dun and Bradstreet Universal Numbering System (DUNS Unique entity identifier and System for Award Management (SAM). Applicants must supply a Dun and Bradstreet Data Universal Numbering System (DUNS) number with their Letters of Intent and RESP Applicants with their loan application.

Please see *http://fedgov.dnb.com/webform.* RESP Applicant are required to be registered in SAM before submitting an application, provide a valid unique entity identifier in the application, and continue to maintain an active SAM registration with current information at all times during which the entity has an active Federal award or an application or plan under consideration by a Federal awarding agency. The agency may not make a Federal award to an RESP Applicant until the RESP Applicant has complied with all applicable unique entity identifier and SAM requirements. If an RESP Applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the RESP Applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another RESP Applicant. Applicants may register for the SAM at *http://www.sam.gov/portal/public/SAM.* To remain registered in SAM, the Applicant must review and update the information in the SAM database annually from the date of initial registration or last update. Applicants must ensure that the information in the database is current, accurate, and complete.

4. Funding Restriction

a. Loan Disbursements. RUS will disburse RESP funds to the RESP borrower in accordance with the terms of the executed loan agreement. Any disbursements of loan funds to a RESP borrower in a single year must not exceed 50 percent of the approved loan amount.

i. The RESP borrower must provide to the Qualified consumers all RESP loan funds that the RESP borrower receives within one year of receiving them from RUS. If the RESP borrower does not re-lend the RESP loan funds within one year, the unused RESP loan funds, and any interest earned on those RESP loan funds, must be returned to the Federal Government and will be applied to the RESP borrower's debt. The RESP borrower will not be eligible to receive additional RESP loan funds from RUS until providing evidence, satisfactory to RUS, that RESP loan funds from a previous advance have been fully relent to Qualified consumers or returned to the Federal Government.

ii. RUS will disburse the RESP loan funds in advance if the following requirements are met:

A. The RESP borrower has established written procedures that will minimize the time elapsing between the transfer of RESP loan funds from RUS and their disbursement to the Qualified consumer; and (ii) the requests for advances made by the RESP borrower are limited to the minimum amounts needed and timed to be in accordance with the actual immediate cash needs to carry out the Energy Efficiency program.

B. Loan term for loans to Qualified consumers. Each loan made by the RESP borrower to a Qualified consumer may not exceed a term of 10 years.

C. Unauthorized uses of funds. The RESP borrower must not finance the purchase or modification of personal property with proceeds from the RESP loan unless the personal property is or becomes attached to real property (including a manufactured home) as a fixture. The RESP borrower must keep adequate processes, procedures and records and must not commingle RESP funds with other sources of funding in the implementation of an EE Program.

5. Submission Requirements

The application process consists of two steps. To be considered for funding in this fiscal year, Applicants must submit their documentation no later than the mandatory dates set forth above.

a. To be considered for financing this fiscal year, an Applicant must submit its mandatory Letter of intent, that complies with the requirements in section D(2) of this NOSA, in a PDF file, not to exceed 10 MB in size, by electronic mail (email) to *RESP@WDC.USDA.GOV* no later than 11:59 p.m. (EST) on August 5, 2016.

b. By submitting the Letter of intent, the Applicant certifies to RUS that it has the intent of submitting a complete RESP loan application on or before the date set forth as the application deadline in the event that RUS provides an Invitation to proceed. RUS will not consider Letters of intent where the project description exceeds five (5) pages. An Invitation to proceed with the loan application sent by the RUS is not to be deemed as an offer by the Agency. In extending an Invitation to proceed to an Applicant in the queue, RUS reserves the right to meet overall RUS Program objectives and therefore, may notify the Applicant that the amount of financing to be awarded is below the level sought by the Applicant.

c. Completed Loan Application. A RESP Applicant that has received an Invitation to proceed, as provided herein, will have up to sixty (60) calendar days to complete the documentation required for the loan application package. The 60-day timeframe will begin from the date RUS delivers the Invitation to proceed to the point of contact identified in the Letter of intent. The Administrator may grant a short extension of time to complete the documentation required for an application if, in the Administrator's sole judgment, extraordinary circumstances prevented the RESP Applicant from completing the application within the timeframe herein stipulated (60 days).

d. Applicants and RESP Applicants have appeal or review rights for Agency decisions made under this NOSA. Programmatic decisions based on clear and objective statutory or regulatory requirements are not appealable; however, such decisions are reviewable for appeal ability by the National Appeals Division (NAD). An Applicant can appeal any Agency decision that directly and adversely impacts it. Appeals will be conducted by USDA NAD and will be handled in accordance with 7 CFR part 11.

e. In the event of system problems during the submittal of the Letter of intent please contact: Titilayo Ogunyale, Senior Advisor, Office of the Administrator, Rural Utilities Service, Rural Development, United States Department of Agriculture, 1400 Independence Avenue SW., STOP 1510, Room 5136–S, Washington, DC 20250–1510; Telephone: (202) 720–0736; Email: *Titilayo.Ogunyale@wdc.usda.gov.* [INSERT CONTACT INFORMATION FOR IT SUPPORT]

E. Agency Review of Letter of Intent and Loan Application

1. Letter of Intent

RUS will consider complete Letters of intent as they are received. Letters of intent will be reviewed by RUS for the following:

a. The legal identity and status of the entity and eligibility to participate in RESP in accordance with section C. of this NOSA.

b. Compliance with meeting the purpose of Section 6407 to help rural families and small businesses achieve cost savings by providing loans to Qualified consumers to implement durable cost-effective Energy efficiency measures.

c. The financial status of the Applicant to determine the Applicant's likelihood to complete the full application.

d. The feasibility of the project.

e. Upon review of the Letters of Intent, RUS will issue a notification to the Applicant indicating the status of its application by stating one of the following:

i. Acknowledgment of receipt of the Letter of intent that was submitted before the deadline but was deemed incomplete. This notification will include the reasons the Letter of intent was deemed incomplete. The Applicant may resubmit a completed Letter of intent within the original deadline of this NOSA.

ii. Acknowledgement of receipt of the Letter of intent that was submitted before the deadline and was deemed complete but will not be receiving an Invitation to proceed for the reasons cited.

iii. Acknowledgement of receipt of the Letter of intent that was submitted before the deadline and was deemed complete and issuance of an Invitation to proceed. This Invitation to proceed will include your placement in the queue and identification of the RUS staff that will be assisting the RESP Applicant in the application process.

2. Loan Application Review

Loans made to RESP Applicants for eligible purposes under this program will be made only when the Administrator, in his judgment, finds that there is reasonably adequate security and the loan will be repaid within the time agreed.

a. Term of the loan. The loan term must not exceed 20 years from the date on which the loan is closed. The Administrator will only make a loan offer to the RESP Applicant in a Conditional commitment letter. Upon receipt of the acceptance of the loan offer from the RUS Borrower, RUS will begin to prepare the loan documents with the assistance of the Eligible entity. Upon completion of the loan documents, RUS will forward the loan documents to the RESP borrower.

b. Loan Feasibility. Based on the complete application, RUS must have reasonable assurance that the loan, together with all other outstanding loans and other obligations of the RESP Applicant, will be repaid in full as scheduled, in accordance with the loan documents. RUS will consider the following criteria to evaluate loan feasibility:

i. The projections of the expected amount of loans to Qualified consumers per year and the average size of those loans per customer class. Those projections must be based on reasonable assumptions and adequate supporting data and analysis.

ii. The expected rates to the Qualified consumers, including interest rate, application fees, servicing fees and any other fees expected to be charged to the Qualified consumer per customer class. The RESP Applicant must demonstrate the basis for its anticipated market penetration assuming these service charges.

iii. The projected revenues, expenses, applicable margins and any other financial information or any other reliable source of revenue of the RESP Applicant that could enable RUS to assess its ability to repay the loan within a term not to exceed 20 years.

iv. Ability of the RESP borrower to meet the required coverage ratios. The Administrator, on case-by-case basis, may set financial coverage ratios based on the risk profile of the RESP Applicant and specific loan terms. Those financial ratios will be included in the RESP borrower's loan documents with RUS. Existing RUS borrowers will be subject to their current debt service coverage ratios in their current loan documents, unless notified otherwise.

v. The economics of the RESP Applicant's operations and service area are such that Qualified consumers may reasonably be expected to pay the proposed rates repay the loans for energy efficiency in such levels so that the RESP borrower may sufficiently cover all its expenses and meet the debt service coverage ratio set by the Administrator.

vi. Possible risk of reduction in electric system demand associated with anticipated efficiency improvements within the consolidated pool of Qualified consumers that could impair the RESP Applicant's ability to repay the RUS loan within the agreed term of the loan.

vii. Possible risk of loss of portions of the RESP Applicant's business in a given area to third party competitors, or other causes that could substantially impair loan feasibility.

viii. The RESP Applicant's management experience implementing EE Programs similar in scale and type to the one to be financed with RESP funds.

ix. Supplemental sources of funding available to the RESP Applicant to implement the Energy efficiency program that enhance the creditworthiness of the RESP applicant.

x. The RESP Applicant has implemented adequate financial and management controls and there are and have been no significant irregularities.

xi. Any other relevant information pertaining to credit enhancement mechanisms available to the RESP Applicant relevant to a determination by RUS of creditworthiness.

c. Loan Security. The Administrator will make loans under the RESP only if, in his judgement, the security is reasonably adequate. Loans will ordinarily be secured by a first and prior lien on substantially all the RESP borrower's property, and in any event will be secured by the best security position practicable in a manner which will adequately protect the interest of the Government during the repayment period of the loan.

i. Liens and Lien Sharing. RUS may in certain circumstances agree to share its first lien position with another lender provided the RESP loan is adequately secured and the security arrangements are acceptable to RUS. In such circumstances, RUS will consider entering into joint security arrangements with other lenders on a pari pasu, prorated basis. For existing RUS borrowers, the agency may, at its sole discretion, rely on existing security arrangements with RUS.

ii. Collateral. Collateral that is used to secure a loan must be free from liens or security interests other those permitted by RUS or existing security documents. RUS generally requires that borrowers provide it with a first priority lien on all of the borrower's real and personal property, including intangible personal property and any property acquired after the date of the loan. This lien will ordinarily be in the form of a mortgage by the RESP borrower to the Government or a deed of trust between the RESP borrower and a trustee satisfactory to the Administrator, together with such additional security documents as RUS may deem necessary in a particular case. When a RESP borrower is unable by reason of preexisting encumbrances, or otherwise, to furnish a first priority lien on its entire system, the Administrator may accept other forms of security, such as a parent guarantee, state guarantee, an irrevocable letter of credit, or a pledge of revenues if the Administrator determines such credit support is reasonably adequate and otherwise acceptable in form and substance.

iii. The requirements for coverage ratios will be set forth in the RESP borrower's loan documents with RUS. The minimum coverage ratios required of RESP borrowers, whether applied on an annual or average basis will be determined by the Administrator on case-by-case based on the risk profile of the RESP Applicant and specific loan features. Existing RUS borrowers will be subject to their current debt service coverage ratios.

vi. When new loan documents are executed, the Administrator may, on a case-by-case basis, increase the coverage ratio of the RESP borrower if the Administrator determines that higher ratios are required to ensure the repayment made by RUS. Also, the Administrator may, on a case-by-case basis, reduce the coverage ratios if the Administrator determines that the lower ratios are required to ensure the repayment of the loan made by RUS.

3. Loan Terms and Conditions

a. General. This section provides the core terms and conditions that RUS will apply in making loans under the RESP. The Administrator, at his sole discretion, may add other terms and conditions in a loan under this NOSA to ensure the RESP loan is timely repaid and is adequately secured.

b. Loan Term. RUS will make loans to RESP Applicant under RESP for a term not to exceed 20 years from the date on which the loan is closed.

c. Interest rate. Loans made under RESP will not bear interest (0%) although indebtedness not paid when due will be subject to interest, penalties, administrative costs and late fees as provided in the loan documents.

d. Repayment. The repayment of each advance to the RESP borrower must be amortized for a period not to exceed 10 years. However, the repayment of the special advance must be during the 10-year period beginning on the date on which the special advance is made. A RESP borrower may elect to defer the repayment of the special advance to the end of the 10-year period. However, all amounts advanced on the loan by RUS to the RESP borrower must be paid prior to the final maturity which must not exceed 20 years.

e. Loan Disbursements. RUS will disburse loan funds to the RESP borrower in accordance with the terms of the loan documents. Excluding the special advance for start-up activities, all loan funds will be disbursed either as an advance in anticipation of consumer loans to be made by the RESP borrower; or as a reimbursement for eligible program costs, including consumer loans already made, once the RESP borrower has complied with the loan covenants. Within a 12-month consecutive period, any disbursements of loan funds to an RESP borrower must not exceed 50 percent of the approved loan amount.

The RESP borrower must provide to the Qualified consumers all RESP loan funds that the RESP borrower receives as advances from RUS within one year of receiving them from RUS. If the RESP borrower does not re-lend RUS funds within one year, the unused loan funds, and any interest earned on those loan funds, must be returned to the government and will be applied to the RESP borrower's debt. The RESP borrower will not be eligible to receive additional loan funds, if available, from RUS until providing evidence, satisfactory to RUS, that loan funds from a previous advance have been fully relent to Qualified consumers or returned to the government.

RUS will disburse the RESP loan funds for anticipated consumer loans if the following requirements are met: (1) The RESP borrower has established written procedures that will minimize the time elapsing between the transfer of funds from RUS and their disbursement to the Qualified consumer; and (2) the requests for advances made by the RESP borrower are limited to the minimum amounts needed and timed to be in accordance with the actual immediate cash needs to carry out the EE Program.

f. Equity Requirements. The required equity position would be determined by the Administrator on a case-by-case basis upon review of the risk profile of the RESP Applicant and the anticipated security arrangements as provided further in Section C(2)(b) in this NOSA.

i. Any additional equity requirement determined necessary by the Administrator will be set forth in the loan documents as a condition to the RESP loan.

ii. The Administrator reserves the right to modify or waive the requirements of this section if the Administrator believes such modifications or waiver are in the best interest of the government and the Administrator has determined that the loan will be repaid in the designated time period and the security is adequate.

g. Loans to Qualified consumers—General. An Eligible entity must use the proceeds from a RESP loan only to make loans to Qualified consumers for the purpose of implementing Energy efficiency measures.

i. Interest rate. Loans made by a RESP borrower to a Qualified consumer may bear interest not to exceed 3 percent. Proceeds from the interest charged to the Qualified consumers may be used to establish a loan loss reserve, and to offset personnel and program costs necessary to carry out the program.

ii. Purpose of the loan to the Qualified consumer. Loans made to a Qualified consumer must be to finance Energy efficiency measures for the purpose of decreasing energy (not just electricity) usage or costs of the Qualified consumer by an amount that ensures, to the maximum extent practicable, that a loan term of not more than 10 years will not pose an undue financial burden on the Qualified consumer as determined by the RESP borrower.

iii. Loan term to Qualified consumers. Loans made by the RESP borrower to Qualified consumers may not exceed 10 years.

iv. Repayment of the Qualified consumer loan. Qualified consumers must repay their loans to the RESP borrower through charges added by the RESP borrower to the electric bill for the property for, or at which, the Energy efficiency measures are or will be implemented. The repayment mechanism adopted to implement an EE Program under RESP must not prevent the voluntary prepayment of the loan by the owner of the property. A RESP borrower may adopt any additional repayment mechanism to carry out its EE Program with RESP proceeds as long as it can demonstrate that the proposed repayment mechanism has appropriate risk mitigation features or is required to ensure repayment to the RESP borrower if the Qualified consumer will no longer be a customer of the RESP borrower.

v. Energy Audit. Loans made by a RESP borrower to a Qualified consumer using RESP loan funds must require an Energy audit by the RESP borrower to determine the impact of the proposed Energy efficiency measures on the energy costs and consumption of the Qualified consumer. The RESP borrower may engage contractors to carry out the Energy audits necessary to fulfill this requirement. In so doing, the RESP borrower must engage contractors with adequate expertise to perform the Energy audits according to the applicable standards of the industry. Contractor's adequate expertise may be determined by using the following criteria:

A. Contractor's staff possesses a current residential or commercial Energy auditor or building analyst certification from a national, industry-recognized organization.

B. Contractor's staff possesses proficiency in the knowledge, skills and abilities needed to conduct whole house assessments, building performance diagnostics and reasoning, and estimates of energy savings from improvement installations (via calculations or a modeling software tool) accredited by training and credentialing. The credentialing process must be at least as robust as those employed by nationally recognized certification bodies or suitable to meet or exceed the rigor of the standards of federal, state or local government entities.

C. The contractor must demonstrate adequate capacity and resources to engage customers, conduct whole house assessments, building performance testing and diagnostic reasoning, and fulfillment of all program data collection and reporting requirements. This includes having access to satisfactory diagnostic equipment, tools, qualified staff, data systems and software, and administrative support.

D. The contractor must be current and in good standing with all local registration and licensing requirements for their specific region and trade.

E. The contractor must employ or sub-contract to companies with workers who are qualified to install or physically oversee the installation of home performance improvements in compliance with local building codes and industry-accepted protocols.

F. In the absence of fulfilling the first criterion under this subsection, the contractor for commercial Energy audits, must meet one of the following criteria:

(1) Be a licensed professional engineer in the state in which the audit is conducted with at least 1 year experience and who has completed at least two similar type Energy audits;

(2) Be an individual with a four-year engineering or architectural degree with at least 3 years of experience and who has completed at least five similar type Energy audits; or

(3) Be an individual with an energy auditor certification recognized by the U.S. Department of Energy through its Better Buildings Workforce Guidelines project. For related information please visit: *https://www4.eere.energy.gov/workforce/projects/workforceguidelines*.

vi. The credentials of the energy auditors used or proposed to be used by the RESP Applicant will be subject to RUS review. RUS may reject a loan application or refuse to disburse loan proceeds to the RESP borrower that fails to demonstrate that the Energy audits will be or have been performed by qualified individuals.

h. Repayment. The RESP borrower is responsible for fully repaying the RESP loan to RUS according to the loan documents regardless of repayment by its Qualified consumers.

i. Material changes in borrower circumstances. A RESP Applicant must, after submitting a loan application, promptly notify RUS of any changes in its circumstances that materially affect the information contained in the loan application.

j. Eligible Activities and Investments.

i. General. A RESP borrower must make loans to Qualified consumers for the purpose of decreasing their energy (not just electricity) use or costs.

ii. A RESP borrower may provide financing to Qualified consumers to implement or invest in one or more set of Energy efficiency measures listed below in this paragraph. However, a RESP borrower may be able to fund other Energy efficiency measures if it can justify, to the satisfaction of the Administrator, that the Energy efficiency measure is cost effective and the technology is commercially available. Eligible activities and investments include, but are not limited, to:

A. Lighting:

(1) Lighting fixture upgrades to improve efficiency.

(2) Re-lamping to more energy efficient bulbs.

(3) Lighting controls.

B. Heating, Ventilation, and Air Conditioning (HVAC):

(1) Central Air Systems—Energy Star qualified equipment.

(2) Window AC Units—Energy Star qualified equipment.

(3) Economizers.

(4) Heat pumps.

(5) Furnaces—Energy Star qualified equipment.

(6) Air Handlers.

(7) Programmable controls.

(8) Duct sealing.

C. Building Envelope Improvements:

(1) Improved insulation—added insulation beyond existing levels, or for new construction, above existing building codes.

(2) Caulking and weather stripping of doors and windows.

(3) Window upgrades—Energy Star qualifying windows.

(4) Door upgrades—door upgrades could include man-doors, and overhead doors with integrated insulation and energy efficient windows.

(5) Any material listed in Appendix A to Part 440 of the U.S. Department of Energy's Weatherization Assistance Program, 10 CFR part 440, Appendix A—Standards for Weatherization Materials.

D. Water Heaters.

E. Compressed Air Systems.

F. Motors:

(1) High efficiency motors—motors with a rated efficiency beyond the Energy Policy Act standards.

(2) Variable frequency drive.

G. Boilers, dryers, heaters and process-related equipment or equipment not otherwise specified, *e.g.*, commercial coolers and freezers.

H. Demand Management or Load Shifting.

I. Energy audits.

J. On or Off Grid Renewable energy systems if consistent with the statutory purpose of RESP.

K. Energy storage devices.

L. The replacement of existing fuel consuming equipment using a particular fuel with more efficient fuel consuming equipment that uses another fuel or the same fuel but with a more efficient output as long as in either of the cases there is no increase in direct greenhouse gas emissions.

M. Energy efficient appliance upgrades if attached to real property.

N. Irrigation or water and waste disposal system efficiency improvements.

O. Necessary and incidental activities and investments directly related to implementation of an Energy efficiency measure.

F. Federal Award Administration Information

1. Federal Award Notices

A successful loan RESP Applicant will receive a Conditional commitment letter from the Administrator notifying it of the total loan amount approved by RUS; any additional controls on the its financial, investment, operational and managerial activities; acceptable security arrangements; and such other conditions deemed necessary by the Administrator to adequately secure the Government's interest and ensure repayment. Receipt of a Conditional commitment letter from the Administrator does not authorize the RESP borrower to commence performance under the award. Any RUS determinations still needed as specified in the Conditional commitment letter must be concluded before the loan will be made. RUS will notify the RESP borrower when it is authorized to commence performance using RESP funds.

2. Administrative and National Policy Requirements

The items listed in Section D and Section E of this notice implement the appropriate administrative and national policy requirements, which include but are not limited to:

a. Execution of a RESP loan agreement and related loan documents;

b. Compliance with policies, guidance, and requirements as described in Section D(2)(c) of this notice, and any successor regulations.

3. Reporting

a. Performance Reporting. RUS will establish periodic reporting requirements. These will be enumerated in the loan documents.

b. Accounting Requirements. RESP borrowers must follow RUS' accounting requirements. These requirements, which will be specified in the Conditional commitment letter, include, but are not limited to, the following:

i. RUS accounting requirements include compliance with Generally Accepted Accounting Principles, as well as compliance with the requirements of the applicable regulations: 7 CFR part 200 (for RESP borrowers, under this CFR Part, the term "grant recipient" will also mean loan recipient) or the system of accounting prescribed by RUS Bulletin 1767. The Administrator may modify the accounting requirements if, in his judgement, it is necessary to satisfy the purpose of Section 6407.

ii. RESP borrowers must comply with all reasonable RUS requests to support ongoing monitoring efforts. The RESP borrowers must afford RUS, through their representatives' reasonable opportunity, at all times during business hours and upon prior notice, to have access to and the right to inspect any or all books, records, accounts, invoices, contracts, leases, payrolls, timesheets, cancelled checks, statements, and other documents, electronic or paper of every kind belonging to or in possession of the RESP borrowers or in any way pertaining to its property or business, including its parents, affiliates, and subsidiaries, if any, and to make copies or extracts therefrom.

c. Audit Requirements. RESP borrowers will be required to prepare and furnish to RUS, at least once during each 12-month period, a full and complete report of its financial condition, operations, and cash flows, in form and substance satisfactory to RUS, audited and certified by an independent certified public accountant, satisfactory to RUS, and accompanied by a report of such audit, in form and substance satisfactory to RUS. RESP borrowers must follow the 7 CRF 1773, Policy on Audits for RUS borrowers or 2 CFR part 200, subpart F audit requirements. The Administrator may modify the audit requirements if, in his judgement, it is necessary to satisfy the purpose of Section 6407.

G. FEDERAL AWARDING AGENCY CONTACT

Titilayo Ogunyale, Senior Advisor, Office of the Administrator, Rural Utilities Service, Rural Development, United States Department of Agriculture, 1400 Independence Avenue SW., STOP 1510, Room 5136–S, Washington, DC 20250–1510; Telephone: (202) 720–0736; Email: *Titilayo.Ogunyale@wdc.usda.gov.*

H. OTHER INFORMATION

1. Other Funding Opportunities

Applicants may also consider the funding opportunities under the Energy Efficiency and Conservation Loan Program, 7 CFR 1710, Subpart H.

2. USDA Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form.

To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

a. *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410;

b. *Facsimile:* (202) 690–7442; or

c. *Email: program.intake@usda.gov.*

d. USDA is an equal opportunity provider, employer, and lender.

Dated: June 15, 2016.

Brandon McBride,

Administrator, Rural Utilities Service.

[FR Doc. 2016–14617 Filed 6–20–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Renewable Energy and Energy Efficiency Advisory Committee: Reestablishment of the Renewable Energy and Energy Efficiency Advisory Committee and Solicitation of Nominations for Membership

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Reestablishment of the Renewable Energy and Energy Efficiency Advisory Committee and Solicitation of Nominations for Membership.

SUMMARY: Pursuant to provisions of the Federal Advisory Committee Act, 5 U.S.C. App., the Department of Commerce announces the reestablishment of the Renewable Energy and Energy Efficiency Advisory Committee (the Committee). The Committee shall advise the Secretary of Commerce regarding the development and administration of programs and policies to expand the competitiveness of U.S. exports of renewable energy and energy efficiency goods and services. The Committee's work on energy efficiency will focus on technologies, services, and platforms that provide system-level energy efficiency to electricity generation, transmission, and distribution. These include smart grid technologies and services, as well as equipment and systems that increase the resiliency of power infrastructure such as energy storage. For the purposes of this Committee, covered goods and services will not include vehicles, feedstock for biofuels, or energy efficiency as it relates to consumer goods. Non-fossil fuels that are considered renewable fuels (*e.g.,* liquid biofuels and pellets) are included. This notice also requests nominations for membership.

DATES: Nominations for members must be received on or before 4:00 p.m. Eastern Daylight Time (EDT) on August 15, 2016.

ADDRESSES: Nominations may be emailed *Victoria.Gunderson@trade.gov;* faxed to the attention of Victoria Gunderson at 202–482–7890; or mailed to Victoria Gunderson, Office of Energy & Environmental Industries, Room 4053, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Victoria Gunderson, Office of Energy & Environmental Industries, Room 4053, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; phone 202–482–7890; fax 202–482–5665; email *Victoria.Gunderson@trade.gov.*

SUPPLEMENTARY INFORMATION:

The Committee shall consist of approximately 35 members appointed by the Secretary in accordance with applicable Department of Commerce guidance and based on their ability to carry out the objectives of the Committee. The Secretary of Commerce invites nominations to the Committee of

U.S. citizens who will represent U.S. companies, U.S. trade associations, and U.S. private sector organizations with activities focused on the export competitiveness of U.S. renewable energy and energy efficiency goods and services. Members shall reflect the diversity of this sector, including in terms of entity or organization size, geographic location, and subsector represented. The Committee shall also represent the diversity of company or organizational roles in the development of renewable energy and energy efficiency projects, including, for example, project developers, technology integrators, financial institutions, and manufacturers.

Prospective applicants and nominees are strongly encouraged to review materials and information on the Committee Web site, including the Committee's charter, to gain an understanding of the Committee's responsibilities, matters on which the Committee will provide recommendations, and expectations for members based on the work of previous Committees: *http://export.gov/reee/reeeac.*

Members serve at the pleasure of the Secretary from the date of appointment to the Committee to the date on which the Committee's charter terminates. Members serve in a representative capacity presenting the views and interests of a U.S. entity or U.S. organization, as well as their particular subsector; they are, therefore, not Special Government Employees.

Members of the Committee must not be registered as foreign agents under the Foreign Agents Registration Act. No member may represent a company that is majority owned or controlled by a foreign government entity (or foreign government entities).

Members of the Committee will not be compensated for their services or reimbursed for their travel expenses.

If you are interested in applying or nominating someone else to become a member of the Committee, please provide the following information:

(1) Sponsor letter on the company's, trade association's or organization's letterhead containing the name, title, and relevant contact information (including phone, fax, and email address) of the individual who is applying or being nominated;

(2) An affirmative statement that the nominee will be able to meet the expected time commitments of Committee work. Committee work includes (1) attending in-person committee meetings roughly four times per year (lasting one day each), (2) undertaking additional work outside of full committee meetings including subcommittee conference calls or meetings as needed, and (3) frequently drafting, preparing, or commenting on proposed recommendations to be evaluated at Committee meetings;

(3) Short biography of nominee, including credentials;

(4) Brief description of the company, trade association, or organization to be represented and its business activities; company size (number of employees and annual sales); and export markets served;

(5) An affirmative statement that the nominee meets all Committee eligibility requirements.

Please do not send company, trade association, or organization brochures or any other information.

See the **ADDRESSES** and **DATES** captions above for how and the deadline for submitting nominations.

Nominees selected for appointment to the Committee will be notified by mail.

Dated: June 15, 2016.

Edward A. O'Malley,

Director, Office of Energy and Environmental Industries.

[FR Doc. 2016–14573 Filed 6–20–16; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Institute of Standards and Technology (NIST); Smart Grid Advisory Committee Meeting

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) Smart Grid Advisory Committee (SGAC or Committee), will meet in open session on Wednesday, July 13, 2016 from 8:30 a.m. to 5:00 p.m. Eastern time and Thursday, July 14, 2016 from 8:30 a.m. to 12:00 p.m. Eastern time. This meeting was originally scheduled for January 26–27, 2016 and was rescheduled due to inclement weather. The primary purposes of this meeting are to provide updates on NIST Smart Grid and Cyber-Physical Systems Program activities and to discuss resiliency and reliability topics. The agenda may change to accommodate Committee business. The final agenda will be posted on the Smart Grid Web site at *http://www.nist.gov/smartgrid.*

DATES: The SGAC will meet on Wednesday, July 13, 2016 from 8:30 a.m. to 5:00 p.m. Eastern time and Thursday, July 14, 2016 from 8:30 a.m. to 12:00 p.m. Eastern time.

ADDRESSES: The meeting will be held in the Executive Conference Room, Building 101 (Administration), National Institute of Standards and Technology (NIST), 100 Bureau Drive, Gaithersburg, Maryland 20899. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Cuong Nguyen, Smart Grid and Cyber-Physical Systems Program Office, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8200, Gaithersburg, MD 20899–8200; telephone 301–975–2254, fax 301–948–5668; or via email at *cuong.nguyen@nist.gov.*

SUPPLEMENTARY INFORMATION: The Committee was established in accordance with the Federal Advisory Committee Act, as amended, 5 U.S.C. App. The Committee is composed of nine to fifteen members, appointed by the Director of NIST, who were selected on the basis of established records of distinguished service in their professional community and their knowledge of issues affecting Smart Grid deployment and operations. The Committee advises the Director of NIST in carrying out duties authorized by section 1305 of the Energy Independence and Security Act of 2007 (Pub. L. 110–140). The Committee provides input to NIST on Smart Grid standards, priorities, and gaps, on the overall direction, status, and health of the Smart Grid implementation by the Smart Grid industry, and on Smart Grid Interoperability Panel activities, including the direction of research and standards activities. Background information on the Committee is available at *http://www.nist.gov/smartgrid/committee.cfm.*

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the NIST Smart Grid Advisory Committee (SGAC or Committee) will meet in open session on Wednesday, July 13, 2016 from 8:30 a.m. to 5:00 p.m. Eastern time and Thursday, July 14, 2016 from 8:30 a.m. to 12:00 p.m. Eastern time. This meeting was originally scheduled for January 26–27, 2016 and was rescheduled due to inclement weather. The meeting will be open to the public and held in the Executive Conference Room, Building 101 (Administration) at NIST in Gaithersburg, Maryland. The primary purposes of this meeting are to provide updates on NIST Smart Grid activities and the intersections with Cyber-Physical System program activities and to discuss resiliency and reliability topics. The agenda may change to accommodate Committee business. The final agenda will be posted on the Smart Grid Web site at *http://www.nist.gov/smartgrid.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's affairs are invited to request a place on the agenda by submitting their request to Cuong Nguyen at *cuong.nguyen@nist.gov* or (301) 975–2254 no later than 5:00 p.m. Eastern time, Friday, July 1, 2016. On Thursday, July 14, 2016, approximately one-half hour will be reserved at the end of the meeting for public comments, and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about three minutes each. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to Mr. Cuong Nguyen, Smart Grid and Cyber-Physical Systems Program Office, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8200, Gaithersburg, MD 20899–8200; telephone 301–975–2254, fax 301–948–5668; or via email at *cuong.nguyen@nist.gov.*

All visitors to the NIST site are required to pre-register to be admitted. Anyone wishing to attend this meeting must register by 5:00 p.m. Eastern time, Friday, July 1, 2016, in order to attend. Please submit your full name, time of arrival, email address, and phone number to Cuong Nguyen. Non-U.S. citizens must submit additional information; please contact Mr. Nguyen. Mr. Nguyen's email address is *cuong.nguyen@nist.gov* and his phone number is (301) 975–2254. For participants attending in person, please note that federal agencies, including NIST, can only accept a state-issued driver's license or identification card for access to federal facilities if such license or identification card is issued by a state that is compliant with the REAL ID Act of 2005 (Pub. L. 109–13), or by a state that has an extension for REAL ID compliance. NIST currently accepts other forms of federal-issued identification in lieu of a state-issued driver's license.

For detailed information, please contact Mr. Nguyen or visit: *http://www.nist.gov/public_affairs/visitor/.*

Kent Rochford,

Associate Director for Laboratory Programs.

[FR Doc. 2016–14580 Filed 6–20–16; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE442

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Subsea Cable-Laying Operations in the Bering, Chukchi, and Beaufort Seas

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of an incidental harassment authorization (IHA).

SUMMARY: In accordance with regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an IHA to Quintillion Subsea Operations, LLC (Quintillion) to take, by harassment, small numbers of 12 species of marine mammals incidental to a subsea cable-laying operation in the state and federal waters of the Bering, Chukchi, and Beaufort seas, Alaska, during the open-water season of 2016.

DATES: This authorization is effective from June 1, 2016 through October 31, 2016.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) of the MMPA establishes a 45-day time limit for NMFS's review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the public comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On October 29, 2015, NMFS received an IHA application and marine mammal mitigation and monitoring plan (4MP) from Quintillion for the taking of marine mammals incidental to conducting subsea cable-laying activities in the U.S. Bering, Chukchi, and Beaufort seas. After receiving NMFS' comments on the initial application, Quintillion made revisions and updated its IHA application and 4MP on February 3, 2016. NMFS determined that the application and the 4MP were adequate and complete on February 5, 2016. NMFS published a notice on March 30, 2016 (81 FR 17666) making preliminary determinations and proposing to issue an IHA. The notice initiated a 30-day comment period.

Quintillion proposed to install a subsea fiber optic network cable along the northern and western coasts of Alaska in the U.S. Bering, Chukchi, and Beaufort seas during the 2016 Arctic open-water season. The activity would occur between June 1 and October 31, 2016. Noise generated from the cable vessel's dynamic positioning thruster could impact marine mammals in the vicinity of the activities. Take, by Level B harassments, of individuals of 12 species of marine mammals from the specified activity is authorized by the IHA.

Description of the Specified Activity

A detailed description of Quintillion's subsea cable-laying program is provided in the **Federal Register** notice for the proposed IHA (81 FR 17666; March 30, 2016). Since that time, no changes have been made to the proposed construction activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS' proposal to issue an IHA to Quintillion was published in the **Federal Register** on March 30, 2016 (81 FR 17666). That notice described, in detail, Quintillion's activity, the marine mammal species and subsistence activities that may be affected by the proposed subsea cable-laying project, and the anticipated effects on marine mammals and subsistence activities. During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission) and the North Slope Borough (NSB). Specific comments and responses are provided below.

Comment 1: The Commission recommends that NMFS issue the requested incidental harassment authorization, subject to inclusion of the proposed mitigation, monitoring, and reporting measures.

Response: NMFS concurs with the Commission's recommendation and has included the mitigation, monitoring, and reporting measures contained in the proposed authorization in the issued IHA.

Comment 2: The NSB requests Quintillion continue coordination with the Alaska Eskimo Whaling Commission (AEWC), and its member communities, and other Alaska Native marine mammal user groups as appropriate, and participation in the well-established and effective Conflict Avoidance Agreement (CAA) process.

Response: Quintillion has worked closely with AEWC, the co-management groups, and the villages to develop a Plan of Cooperation (POC) that recognizes the time and place of subsistence use and provides an effective plan for avoiding active subsistence areas. Quintillion stated that it has discussed the potential for a CAA with the AEWC and that they agreed it is not necessary for Quintillion to sign a CAA for its subsea cable-laying project; therefore, Quintillion is not signing a CAA. NMFS has conducted a thorough analysis of the potential impact on subsistence activities from Quintillion's proposed subsea cable-laying operations and determined that the proposed project would not have unmitigable impacts to subsistence use of marine mammals in the vicinity of the project area, given that Quintillion is required to implement a number of mitigation and monitoring measures (see "Impacts on Availability of Affected Species for Taking for Subsistence Use" section below for details). In addition, Quintillion has prepared a POC, which includes detailed maps showing scheduled cable-laying activity relative to seasonal subsistence use. Quintillion states that these maps have been reviewed and the schedule is supported by AEWC. NMFS has reviewed the POC and believes it contains all necessary information for us to make the above determination.

Comment 3: The NSB requests Quintillion to communicate with all villages near its operations to make sure its activities do not disrupt subsistence activities, and to ensure the life, health and safety of Borough residents who may be out on the ocean.

Response: As stated earlier in *Response to Comment 2,* the POC provided by Quintillion contains all necessary information for us to make a determination that Quintillion's proposed subsea cable-laying activity would not have an unmitigable impact to subsistence use of marine mammal resources in the vicinity of the project area. This POC also includes the daily communication plan that Quintillion will be implementing. Further, Quintillion stated it is donating to AEWC and landing villages memberships to Marine Exchange Alaska, which will allow real-time tracking of Quintillion vessels during its subsea cable-laying operations.

Comment 4: The NSB requests Quintillion conduct a robust visual and acoustical monitoring program with input from subsistence hunters and the Borough's Department of Wildlife Management.

Response: For the issuance of the IHA to Quintillion, NMFS worked with the applicant, NMFS' biologists in the Alaska Region and Alaska Fisheries Science Center, and an independent peer-review panel to ensure that robust visual and acoustical monitoring programs are in place to provide adequate monitoring measures during Quintillion's subsea cable-laying operations in the Arctic. For visual monitoring, Quintillion is required to place both Inupiat and non-native Protected Species Observers (PSO) on three cable-laying vessels to conduct visual monitoring throughout the entire project during the daylight period, including all vessel transits. Quintillion is also required to provide substantial financial support to two existing passive acoustical monitoring (PAM) programs that will be monitoring both marine mammals and vessel noise in the cable-laying project area. These include supporting the National Marine Mammal Laboratory's (NMML) PAM program in the northern Chukchi and western Beaufort Seas, and the Kotzebue Sound PAM in the southern Chukchi Sea. Support of these active programs, in lieu of a separate and unproven PAM program, was recommended by Dr. Robert Suydam with the NSB Department of Wildlife Management during the monitoring plan independent peer-review process. This approach was additionally supported by Dr. Manuel Castellote with NMML, who would also be the acoustical liaison for both PAM projects and would help to ensure the PAM projects provide the necessary information on marine mammal vocalizations and ship underwater sound needed for the 90-day report.

Description of Marine Mammals in the Area of the Specified Activity

The Bering, Chukchi, and Beaufort seas support a diverse assemblage of marine mammals. Table 1 lists the 12 marine mammal species under NMFS jurisdiction with confirmed or possible occurrence in the proposed project area.

TABLE 1—MARINE MAMMAL SPECIES WITH CONFIRMED OR POSSIBLE OCCURRENCE IN THE PROPOSED ACTION AREA

Common name	Scientific name	Status	Occurrence	Seasonality	Range	Abundance
Odontocetes						
Beluga whale (Beaufort Sea stock).	*Delphinapterus leucas*		Common	Mostly spring and fall with some in summer.	Mostly Beaufort Sea	39,258
Beluga whale (eastern Chukchi Sea stock).			Common	Mostly spring and fall with some in summer.	Mostly Chukchi Sea	3,710
Beluga whale (eastern Bering Sea stock).			Common	Year round	Bering Sea	19,186
Killer whale (Alaska resident stock).	*Orcinus orca*		Occasional/Extralimital	Mostly summer and early fall.	California to Alaska	2,347
Harbor porpoise (Bering Sea stock).	*Phocoena phocoena*		Occasional/Extralimital	Mostly summer and early fall.	California to Alaska	48,215
Mysticetes						
* Bowhead whale (W. Arctic stock).	*Balaena mysticetus*	Endangered; Depleted	Common	Mostly spring and fall with some in summer.	Russia to Canada	19,534
Gray whale (E. North Pacific stock).	*Eschrichtius robustus*		Somewhat common	Mostly summer	Mexico to the U.S. Arctic Ocean.	20,990
* Fin whale (N. East Pacific).	*Balaenoptera physalus*	Endangered; Depleted	Rare	Mostly summer	N.E. Pacific Ocean	1,650
Minke whale	*Balaenoptera acutorostrata.*		Rare	Mostly summer	N.E. Pacific Ocean	810
* Humpback whale (Central North Pacific stock).	*Megaptera novaeangliae.*	Endangered; Depleted	Rare	Mostly summer	North Pacific Ocean	10,103
* Humpback whale (western North Pacific stock).		Endangered; Depleted	Rare	Mostly summer	North Pacific Ocean	1,107
Pinnipeds						
Bearded seal (Alaska stock).	*Erigathus barbatus*		Common	Spring and summer	Bering, Chukchi, and Beaufort Seas.	155,000
Ringed seal (Alaska stock).	*Phoca hispida*		Common	Year round	Bering, Chukchi, and Beaufort Seas.	249,000
Spotted seal (Alaska stock).	*Phoca largha*		Common	Summer	Japan to U.S. Arctic Ocean.	460,268
Ribbon seal (Alaska stock).	*Histriophoca fasciata*		Occasional	Summer	Russia to U.S. Arctic Ocean.	49,000

* Endangered, threatened, or species of concern under the Endangered Species Act (ESA); Depleted under the MMPA.

Among these species, bowhead, humpback, and fin whales are listed as endangered species under the Endangered Species Act (ESA). In addition, walrus and polar bear could also occur in the Bering, Chukchi, and Beaufort seas; however, these species are managed by the U.S. Fish and Wildlife Service (USFWS) and are not considered in this Notice of Issuance of an IHA.

Of all these species, bowhead and beluga whales and ringed, bearded, and spotted seals are the species most frequently sighted in the proposed activity area. The proposed action area in the Bering, Chukchi, and Beaufort seas also includes areas that have been identified as important for bowhead whale reproduction during summer and fall and for beluga whale feeding and reproduction in summer.

Most bowheads migrate in the fall through the Alaskan Beaufort Sea in water depths between 15 and 200 m (50 and 656 ft) deep (Miller *et al.* 2002), with annual variability depending on ice conditions. Hauser *et al.* (2008) conducted surveys for bowhead whales near the Colville River Delta (near Oliktok Point) during August and September 2008, and found most bowheads between 25 and 30 km (15.5 and 18.6 mi) north of the barrier islands (Jones Islands), with the nearest in 18 m (60 ft) of water about 25 km (16 mi) north of the Colville River Delta. No bowheads were observed inside the 18-m (60-ft) isobath. Most of the cable-lay activity planned for the Beaufort Sea will occur in water deeper than 15 m (50 ft), where migrating bowhead whales could most likely be encountered.

Three stocks of beluga whale inhabit the waters where cable-lay is planned to occur: Beaufort Sea, Eastern Chukchi Sea, and Eastern Bering Sea (O'Corry-Crowe *et al.* 1997). All three stocks winter in the open leads and polynyas of the Bering Sea (Hazard 1988). In spring, the Beaufort Sea stock migrates through coastal leads more than 2,000 km (1,200 mi) to their summering grounds in the Mackenzie River delta where they molt, feed, and calve in the warmer estuarine waters (Braham *et al.* 1977). In late summer, these belugas move into offshore northern waters to feed (Davis and Evans 1982, Harwood *et al.* 1996, Richard *et al.* 2001). In the fall, they begin their migration back to their wintering grounds generally following an offshore route as they pass through the western Beaufort Sea (Richard *et al.* 2001).

The Beaufort Sea stock beluga whales take a more coastal route during their fall migration, but compared to the vanguard of population and the survey effort expended, nearshore travel appears to be relatively rare. Most belugas recorded during aerial surveys conducted in the Alaskan Beaufort Sea in the last two decades were found more than 65 km (40 mi) from shore (Miller *et al.* 1999, Funk *et al.* 2008, Christie *et al.* 2010, Clarke and Ferguson 2010, Brandon *et al.* 2011). For the most part, beluga whales from this stock are expected to occur well north of the proposed cable route through the Beaufort Sea at the time of cable-lay activity.

The Eastern Chukchi Sea beluga whale stock summers in Kotzebue Sound and Kasegaluk Lagoon where they breed and molt, and then in late summer and fall they also move in the Beaufort Sea (Suydam *et al.* 2005). Suydam *et al.* (2005) satellite-tagged 23 beluga whales in Kasegaluk Lagoon and found nearly all the whales move into the deeper waters of the Beaufort Sea post-tagging. However, virtually none of the whales were found in continental shelf waters (<200 m deep) of the Beaufort Sea, and all were in waters at least 65 km (40 mi) north of the northern Alaska coastline. The most recent stock estimate is 3,710 animals (Allen and Angliss 2015). The planned cable-lay activity is most likely to encounter this stock while laying the Kotzebue and Wainwright branch lines, but the routes do avoid the Kasegaluk Lagoon breeding and molting area.

There is little information on movements of the East Bering Sea stock of beluga whales, although two whales that were satellite-tagged in 2012 near Nome wintered in Bristol Bay (Allen and Angliss 2015). Whales from this stock might be encountered while laying the Nome branch line.

In addition, a few gray whales are expected to be encountered along the main trunk line route through the north Bering and Chukchi seas. However, they are expected to be commonly observed along the nearshore segments of the branch lines, especially the Wainwright branch, where they are commonly found in large feeding groups.

Three of the ice seal species—ringed, bearded, and spotted seals—are fairly common in the proposed subsea cable-laying areas. However, there are no pinnipeds haulouts in the vicinity of the action area.

Fin whale, minke whale, and ribbon seal are not common in the vicinity of the project area, though they could occur occasionally.

Further information on the biology and local distribution of these species can be found in Quintillion's application (see **ADDRESSES**) and the NMFS Marine Mammal Stock Assessment Reports, which are available online at: *http://www.nmfs.noaa.gov/pr/sars/species.html.*

Potential Effects of the Specified Activity on Marine Mammals

The effects of the stressors associated with the specified activity (*e.g.,* acoustic effects of operation of dynamic thrusters) have the potential to result in harassment of marine mammals. The **Federal Register** notice for the proposed IHA (81 FR 17666, March 30, 2016) included a discussion of the effects of acoustic stimuli on marine mammals. Therefore, that information is not repeated here. No instances of injury, serious injury, or mortality (Level A take) are expected as a result of the subsea cable-laying operation activities, nor are any Level A take authorized by this IHA.

Anticipated Effects on Marine Mammal Habitat

Project activities that could potentially impact marine mammal habitats include acoustical impacts to prey resources from thruster noise and impacts associated with laying cable on sea bottom. Regarding the former, however, acoustical injury from thruster noise is unlikely. Previous noise studies (*e.g.,* Greenlaw *et al.* 1988, Davis *et al.* 1998, Christian *et al.* 2004) with cod, crab, and schooling fish found little or no injury to adults, larvae, or eggs when exposed to impulsive noises exceeding 220 decibels (dB). Continuous noise levels from ship thrusters are generally below 180 dB, and do not create great enough pressures to cause tissue or organ injury.

Nedwell *et al.* (2003) measured noise associated with cable trenching operations offshore of Wales, United Kingdom, and found that levels (178 dB at source) did not exceed those where significant avoidance reactions of fish would occur. Cable burial operations involve the use of ploughs or jets to cut trenches in the sea floor sediment. Cable ploughs are generally used where the substrate is cohesive enough to be "cut" and laid alongside the trench long enough for the cable to be laid at depth. In less cohesive substrates, where the sediment would immediately settle back into the trench before the cable could be laid, jetting is used to scour a more lasting furrow. The objective of both is to excavate a temporary trench of sufficient depth to fully bury the cable. The plough blade is 0.2 m (0.7 ft) wide, producing a trench of approximately the same width. Jetted trenches are somewhat wider, depending on the sediment type. Potential impacts to marine mammal habitat and prey include (1) crushing of benthic and epibenthic invertebrates with the plough blade, plough skid, or remote operating vehicle (ROV) track, (2) dislodgement of benthic invertebrates onto the surface where they may die, and (3) and the settlement of suspended sediments away from the trench where they may clog gills or feeding structures of sessile invertebrates or smother sensitive species (BERR 2008). However, the footprint of cable trenching is generally restricted to 2 to 3 m (7–10 ft) width (BERR 2008), and the displaced wedge or berm is expected to naturally backfill into the trench. Jetting results in more suspension of sediments, which may take days to settle, during which currents may transport it well away (up to several kilometers) from its source. Suspended sand particles generally settle within about 20 m (66 ft). BERR (2008) reviewed the effect of offshore wind farm construction, including laying of power and communication cables, on the environment. Based on a rating of 1 to 10, they concluded that sediment disturbance from plough operations rated the lowest at 1, with jetting rating from 2 to 4, depending on substrate. Dredging rated the highest (6) relative sediment disturbance.

The maximum amount of trenching possible is about 1,900 km (1,180 mi), but the width of primary effect is only about 3 m (10 ft). Thus, the maximum impact footprint is less than 6 km^2 (2.3 mi^2), an insignificantly small area given the Chukchi Sea area alone is 595,000 km^2 (230,000 mi^2). Overall, cable-laying effects to marine mammal habitat and prey resources are considered not significant.

Mitigation Measures

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

The primary purpose of these mitigation measures is to detect marine mammals and avoid vessel interactions during the pre- and post-cable-laying activities. Due to the nature of the activities, the vessel will not be able to engage in direction alteration during cable-laying operations. However, since the cable-laying vessel will be moving at a slow speed of 600 meter/hour (0.37 mile per hour or 0.32 knot) during cable-laying operations, it is highly unlikely that the cable vessel would have physical interaction with marine mammals. For Quintillion's proposed subsea cable-laying project, NMFS is requiring Quintillion to implement the following mitigation measures to minimize the potential impacts to marine mammals in the project vicinity as a result of its planned activities.

(a) Establishing Zone of Influence (ZOI)

A PSO would establish a ZOI where the received level is 120 dB during Qunitillion's subsea cable-laying operation and conduct marine mammal monitoring during the operation.

(b) Vessel Movement Mitigation during Pre- and Post-cable-laying Activities

When the cable-lay fleet is traveling in Alaskan waters to and from the project area (before and after completion of cable-laying), the fleet vessels would:

- Not approach concentrations or groups of whales (an aggregation of 6 or more whales) within 1.6 km (1 mi) by all vessels under the direction of Quintillion;
- Take reasonable precautions to avoid potential interaction with any bowhead whales observed within 1.6 km (1 mi) of a vessel; and
- Reduce speed to less than 5 knots when visibility drops, to avoid the likelihood of collision with whales. The normal vessel travel speeds when laying cable is well less than 5 knots.

Mitigation Conclusions

NMFS has carefully evaluated prescribed mitigation measures for Quintillion's planned subsea cable-laying project and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measures are expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal);
2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only);
3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only);
4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing the severity of harassment takes only);
5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time; and
6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's planned measures, as well as other measures considered by NMFS, NMFS has determined that the prescribed mitigation measures provide the means of effecting the least practicable impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance. Prescribed measures to ensure availability of such species or stocks for taking for certain subsistence uses are discussed later in this document (see "Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses" section).

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth, "requirements pertaining to the monitoring and reporting of such taking." The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Quintillion submitted a marine mammal monitoring plan as part of the IHA application. The plan has not been modified or supplemented based on comments or new information received from the public during the public comment period or from the peer review panel (see the *"Monitoring Plan Peer Review"* section later in this document).

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

1. An increase in our understanding of the likely occurrence of marine mammal species in the vicinity of the action, *i.e.,* presence, abundance, distribution, and/or density of species;
2. An increase in our understanding of the nature, scope, or context of the likely exposure of marine mammal species to any of the potential stressor(s) associated with the action (*e.g.* sound or visual stimuli), through better understanding of one or more of the following: The action itself and its environment (*e.g.* sound source characterization, propagation, and ambient noise levels); the affected species (*e.g.* life history or dive pattern); the likely co-occurrence of marine mammal species with the action (in whole or part) associated with specific adverse effects; and/or the likely biological or behavioral context of exposure to the stressor for the marine mammal (*e.g.* age class of exposed animals or known pupping, calving or feeding areas);
3. An increase in our understanding of how individual marine mammals respond (behaviorally or physiologically) to the specific stressors associated with the action (in specific contexts, where possible, *e.g.,* at what distance or received level);
4. An increase in our understanding of how anticipated individual responses, to individual stressors or anticipated combinations of stressors, may impact either: The long-term fitness and survival of an individual; or the population, species, or stock (*e.g.* through effects on annual rates of recruitment or survival);
5. An increase in our understanding of how the activity affects marine mammal habitat, such as through effects on prey sources or acoustic habitat (*e.g.,* through characterization of longer-term contributions of multiple sound sources to rising ambient noise levels and assessment of the potential chronic effects on marine mammals);
6. An increase in understanding of the impacts of the activity on marine mammals in combination with the impacts of other anthropogenic activities or natural factors occurring in the region;
7. An increase in our understanding of the effectiveness of mitigation and monitoring measures; and
8. An increase in the probability of detecting marine mammals (through improved technology or methodology), both specifically within the safety zone (thus allowing for more effective implementation of the mitigation) and in general, to better achieve the above goals.

Monitoring Measures

Monitoring will provide information on the numbers of marine mammals affected by the subsea cable-laying operation and facilitate real-time mitigation to prevent injury of marine mammals by vessel traffic. These goals will be accomplished in the Bering, Chukchi, and Beaufort seas during 2016 by conducting vessel-based monitoring and passive acoustic monitoring to document marine mammal presence and distribution in the vicinity of the operation area.

Visual monitoring by PSOs during subsea cable-laying operations, and periods when the operation is not occurring, will provide information on the numbers of marine mammals potentially affected by the activity. Vessel-based PSOs onboard the vessels will record the numbers and species of marine mammals observed in the area and any observable reaction of marine mammals to the cable-laying operation in the Bering, Chukchi, and Beaufort seas.

Vessel-Based PSOs

Vessel-based monitoring for marine mammals would be done by trained PSOs throughout the period of subsea cable-laying operation. The observers will monitor the occurrence of marine mammals near the cable-laying vessel during all daylight periods during operation. PSO duties include watching for and identifying marine mammals; recording their numbers, distances, and reactions to the survey operations; and documenting "take by harassment."

A sufficient number of PSOs would be required onboard each survey vessel to meet the following criteria:

- 100 *percent* monitoring coverage during all periods of cable-laying operations in daylight;
- Maximum of 4 consecutive hours on watch per PSO; and
- Maximum of 12 hours of watch time per day per PSO.

PSO teams will consist of Inupiat observers and experienced field biologists. Each vessel will have an experienced field crew leader to supervise the PSO team. The total number of PSOs may decrease later in the season as the duration of daylight decreases.

(1) PSOs Qualification and Training

Lead PSOs and most PSOs will be individuals with experience as observers during marine mammal monitoring projects in Alaska or other offshore areas in recent years. New or inexperienced PSOs would be paired with an experienced PSO or experienced field biologist so that the quality of marine mammal observations and data recording is kept consistent.

Resumes for candidate PSOs will be provided to NMFS for review and acceptance of their qualifications. Inupiat observers would be experienced in the region and familiar with the marine mammals of the area. All observers will complete a NMFS-approved observer training course designed to familiarize individuals with monitoring and data collection procedures.

(2) Marine Mammal Observation Protocol

PSOs shall watch for marine mammals from the best available vantage point on the survey vessels, typically the bridge. PSOs shall scan systematically with the unaided eye and 7 × 50 reticle binoculars, and night-vision and infra-red equipment when needed. Personnel on the bridge shall assist the marine mammal observer(s) in watching for marine mammals; however, bridge crew observations will not be used in lieu of PSO observation efforts.

Monitoring shall consist of recording of the following information:

1. The species, group size, age/size/sex categories (if determinable), the general behavioral activity, heading (if consistent), bearing and distance from vessel, sighting cue, behavioral pace, and apparent reaction of all marine mammals seen near the vessel (*e.g.,* none, avoidance, approach, paralleling, etc.);
2. The time, location, heading, speed, and activity of the vessel, along with sea state, visibility, cloud cover and sun glare at (I) any time a marine mammal is sighted, (II) at the start and end of each watch, and (III) during a watch (whenever there is a change in one or more variable);
3. The identification of all vessels that are visible within 5 km of the vessel from which observation is conducted whenever a marine mammal is sighted and the time observed;
4. Any identifiable marine mammal behavioral response (sighting data should be collected in a manner that will not detract from the PSO's ability to detect marine mammals);
5. Any adjustments made to operating procedures; and
6. Visibility during observation periods so that total estimates of take can be corrected accordingly.

Distances to nearby marine mammals will be estimated with binoculars (7 × 50 binoculars) containing a reticle to measure the vertical angle of the line of sight to the animal relative to the horizon. Observers may use a laser rangefinder to test and improve their abilities for visually estimating distances to objects in the water. Quintillion shall use the best available technology to improve detection capability during periods of fog and other types of inclement weather. Such technology might include night-vision goggles or binoculars as well as other instruments that incorporate infrared technology.

PSOs shall understand the importance of classifying marine mammals as "unknown" or "unidentified" if they cannot identify the animals to species with confidence. In those cases, they shall note any information that might aid in the identification of the marine mammal sighted. For example, for an unidentified mysticete whale, the observers should record whether the animal had a dorsal fin. Additional details about unidentified marine mammal sightings, such as "blow only," "mysticete with (or without) a dorsal fin," "seal splash," etc., shall be recorded.

Acoustic Monitoring

(1) Sound Source Measurements

Quintillion will conduct a sound source verification (SSV) on one of the cable-lay ships and the anchor-handling tugs when both are operating near Nome (early in the season).

(2) Passive Acoustic Monitoring

After consulting with NMFS' Office of Protected Resources, the National Marine Mammal Laboratory (NMML), and the North Slope Borough Department of Wildlife, Quintillion will contribute to the 2016 joint Arctic Whale Ecology Study (ARCWEST)/Chukchi Acoustics, Oceanography, and Zooplankton Study-extension (CHAOZ–X).

The summer minimum extent of sea ice in the northern Bering Sea, Chukchi Sea, and western Beaufort Sea has diminished by more than 50 *percent* over the past two decades. This loss of ice has sparked concerns for long-term survival of ice-dependent species like polar bears, Pacific walrus, bearded seals, and ringed seals. In contrast, populations of some Arctic species such as bowhead and gray whales have increased in abundance, while subarctic species such as humpback, fin, and minke whales have expanded their ranges into the Arctic in response to warmer water and increased zooplankton production. The joint ARCWEST/CHAOZ–X program has been monitoring climate change and anthropogenic activity in the Arctic waters of Alaska since 2010 by tracking satellite-tagged animals, sampling lower trophic levels and physical oceanography, and passively acoustically monitoring marine mammal and vessel activity.

The current mooring locations for the PAM portion of the joint program align closely with the proposed Quintillion cable-lay route. Operating passive acoustic recorders at these locations in 2016 would not only provide information on the distribution and composition of the marine mammal community along the proposed cable-lay route at the time cable-lay activities would be occurring, but they could also record the contribution of the cable-lay activity on the local acoustical environment where the route passes close to these stations.

Reporting Measures

(1) Sound Source Verification Report

A report on the preliminary results of the sound source verification measurements, including the measured source level, shall be submitted within 14 days after collection of those measurements at the start of the field season. This report will specify the distances of the ZOI that were adopted for the survey.

(2) Technical Report (90-Day Report)

A draft report will be submitted to the Director, Office of Protected Resources, NMFS, within 90 days after the end of Quintillion's subsea cable-laying operation in the Bering, Chukchi, and Beaufort seas. The report will describe in detail:

1. Summaries of monitoring effort (*e.g.,* total hours, total distances, and marine mammal distribution through the project period, accounting for sea state and other factors affecting visibility and detectability of marine mammals);
2. Summaries that represent an initial level of interpretation of the efficacy, measurements, and observations;
3. Analyses of the effects of various factors influencing detectability of marine mammals (*e.g.,* sea state, number of observers, and fog/glare);
4. Species composition, occurrence, and distribution of marine mammal sightings, including date, water depth, numbers, age/size/gender categories (if determinable), group sizes, and ice cover;
5. Estimates of uncertainty in all take estimates, with uncertainty expressed by the presentation of confidence limits, a minimum-maximum, posterior probability distribution, or another applicable method, with the exact approach to be selected based on the sampling method and data available; and
6. A clear comparison of authorized takes and the level of actual estimated takes.

The draft report shall be subject to review and comment by NMFS. Any recommendations made by NMFS must be addressed in the final report prior to acceptance by NMFS. The draft report will be considered the final report for this activity under this Authorization if NMFS has not provided comments and recommendations within 90 days of receipt of the draft report.

(3) Notification of Injured or Dead Marine Mammals

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA, such as a serious injury, or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), Quintillion will immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinators. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with Quintillion to determine the necessary measures to minimize the likelihood of further prohibited take and ensure MMPA compliance. Quintillion would not be able to resume its activities until notified by NMFS via letter, email, or telephone.

In the event that Quintillion discovers a dead marine mammal, and the lead PSO determines that the cause of the death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), Quintillion would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators. The report would include the same information identified in the paragraph above. Activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with Quintillion to determine whether modifications in the activities would be appropriate.

In the event that Quintillion discovers a dead marine mammal, and the lead PSO determines that the death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Quintillion would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Alaska Stranding Hotline and/or by email to the Alaska Regional Stranding Coordinators, within 24 hours of the discovery. Quintillion would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Quintillion can continue its operations under such a case.

Monitoring Plan Peer Review

The MMPA requires that monitoring plans be independently peer reviewed "where the proposed activity may affect the availability of a species or stock for taking for subsistence uses" (16 U.S.C. 1371(a)(5)(D)(ii)(III)). Regarding this requirement, NMFS' implementing regulations state, "Upon receipt of a complete monitoring plan, and at its discretion, [NMFS] will either submit the plan to members of a peer review panel for review or within 60 days of receipt of the proposed monitoring plan, schedule a workshop to review the plan" (50 CFR 216.108(d)).

NMFS convened an independent peer review panel to review Quintillion's 4MP for the proposed subsea cable-laying operation in the Bering, Chukchi, and Beaufort seas. The panel met via web conference in early March 2016, and provided comments to NMFS in April 2016. The full panel report can be viewed on the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.html.*

NMFS provided the panel with Quintillion's IHA application and monitoring plan and asked the panel to answer the following questions:

1. Will the applicant's stated objectives effectively further the understanding of the impacts of their activities on marine mammals and otherwise accomplish the goals stated above? If not, how should the objectives be modified to better accomplish the goals above?
2. Can the applicant achieve the stated objectives based on the methods described in the plan?
3. Are there technical modifications to the proposed monitoring techniques and methodologies proposed by the applicant that should be considered to better accomplish their stated objectives?
4. Are there techniques not proposed by the applicant (*i.e.*, additional monitoring techniques or methodologies) that should be considered for inclusion in the applicant's monitoring program to better accomplish their stated objectives?
5. What is the best way for an applicant to present their data and results (formatting, metrics, graphics, etc.) in the required reports that are to be submitted to NMFS (*i.e.*, 90-day report and comprehensive report)?

The peer-review panel report contains recommendations that the panel members felt were applicable to the Quintillion's monitoring plans. Specifically, the panel recommended the following:

(1) Additional PAM recorders be deployed closer to shore, if possible. This would allow for monitoring of sounds generated by nearshore cable-laying barges, as well as for detection of marine mammals. The panel identified waters near Kotzebue as a high priority for additional acoustic monitoring due to the presence of marine mammals sensitive to acoustic disturbance, such as beluga whales and bearded seals, and the reliance on those species for subsistence purposes;

(2) Quintillion contributes funding to assist in the analysis of existing data from passive acoustic monitors deployed in 2013–2015 near Kotzebue. These data could serve as a baseline for noise levels and marine mammal distribution and vocalization rates during years in which cable-laying activities were not operating. Given financial constraints, the Panel recommends funding analyses of these additional PAM data at the expense of Quintillion's proposed plan for PSOs to visually monitor for marine mammals;

(3) If possible, PSOs be deployed on shallow-water barges. If accommodations are limited, PSOs could be deployed on a daily basis. If PSOs cannot be deployed, the panel recommends that crew members receive PSO training;

(4) Infra-red systems have improved considerably and should be considered as an additional monitoring tool for operations at night or in low visibility conditions;

(5) If subsea cable-laying operations are not completed by mid-September in the Beaufort Sea, Quintillion should have a contingency plan for monitoring potential impacts to marine mammals, generally, and bowheads specifically. Because of the sensitivity of bowheads to anthropogenic sounds and the importance of the western Beaufort Sea as a feeding area, the monitoring plan should include methods for monitoring "over-the-horizon." This plan might include aerial surveys, scout vessels with PSOs, or some other method. The information collected during this monitoring effort, if needed, would be very helpful in developing a mitigation and monitoring plan if Quintillion lays cable through the remainder of the Beaufort Sea in the future;

(6) Quintillion should also have an appropriate communication plan in place to avoid impacting fall hunts of bowhead whales in the Beaufort (Kaktovik, Nuiqsut, and Barrow) and Chukchi seas (Barrow, Wainwright, and Point Lay), as much as possible; and

(7) Quintillion should also ensure all sources of noise are included in SSV measurements and in its description of anticipated source levels (not just thrusters but winches under tension, plough hydraulics, active transducers, jetting, etc.). The ROV includes two jets, and it would be useful to get SSV measurements of the ROVs also.

NMFS discussed the peer review panel report and the list of recommendations with Quintillion. For the aforementioned monitoring measures, NMFS requires and Quintillion agrees to implement the following:

(1) Conducting additional PAM in nearshore waters near Kotzebue;

(2) Contributing an additional $20,000 funding to assist in the analysis of existing data from passive acoustic monitors deployed in 2013–2015 near Kotzebue;

(3) Using infra-red systems for marine mammal monitoring at night or in low visibility conditions;

(4) Quintillion is required to have an appropriate communication plan in place to avoid impacting fall hunts of bowhead whales in the Beaufort (Kaktovik, Nuiqsut, and Barrow) and Chukchi seas (Barrow, Wainwright, and Point Lay), as much as possible. The communication plan is part of the POC that Quintillion submitted to NMFS; and

(5) Conducting SSV measurements on all noise sources, including noise from the cable ship during plowing operations, and noise from the nearshore barge during winching, anchor-handling, and ROV operations.

However, in discussions with Quintillion, NMFS determined that the following recommendations from the peer-review panel cannot be implemented.

(1) It is not possible to deploy PSOs on the shallow water barge, and training crew members is unrealistic. Quintillion states that the shallow water barge is a small, flat barge with a deck, only a few feet off the water surface, and two modules to house offices and berths. Deck space is small and dangerous, and there is no elevated platform to monitor from. Crew members will be working on the deck at their normal jobs, and will have no time to watch for marine mammals.

(2) Quintillion has worked closely with AEWC and other subsistence groups to develop a POC that allows Quintillion to complete their program in 2016, while minimizing impacts to subsistence use. However, if Quintillion cannot complete the work by mid-September in the Beaufort Sea, Quintillion states that it could not afford to conduct aerial surveys and/or use scout vessels for additional monitoring. Furthermore, as stated earlier in *Response to Comment 4*, NMFS believes that Quintillion's visual and acoustic monitoring plans are robust for its proposed subsea cable-laying activity. Therefore, additional monitoring utilizing aerial surveys and/or scout vessels is not warranted.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Takes by Level B harassments of some species are anticipated as a result of Quintillion's proposed subsea cable-laying operation. NMFS expects marine mammal takes could result from noise propagation from dynamic position thrusters during cable-laying operation.

NMFS does not expect marine mammals would be taken by collision with cable and support vessels, because the vessels will be moving at low speeds, and PSOs on the vessels will be monitoring for marine mammals and will be able to alert the vessels to avoid any marine mammals in the area.

For non-impulse sounds, such as those produced by the dynamic positioning thrusters during Quintillion's subsea cable-laying operation, NMFS uses the 180 and 190 dB (rms) re 1 μPa isopleth to indicate the onset of Level A harassment for cetaceans and pinnipeds, respectively; and the 120 dB (rms) re 1 μPa isopleth for Level B harassment of all marine mammals. Quintillion provided calculations of the 120-dB isopleths expected to be produced by the dynamic positioning thrusters during the proposed cable-laying operation to estimate takes by harassment. NMFS used those calculations to make the necessary MMPA findings. Quintillion provided a full description of the methodology used to estimate takes by harassment in its IHA application, which is also provided in the following sections. There is no 180 or 190-dB zone from the planned activities.

Noise Sources

The planned cable-laying activity is expected to generate underwater noises from several sources, including thrusters, plows, jets, ROVs, echo sounders, and positioning beacons. The predominant noise source and the only underwater noise that is likely to result in take of marine mammals during cable-laying operations is the cavitating noise produced by the thrusters during dynamic positioning of the vessel (Tetra Tech 2014). Cavitation is random collapsing of bubbles produced by the blades. The vessel of Quintillion's contractor Alcatel-Lucent Submarine Networks, the *C/S Ile de Brehat*, maintains dynamic positioning during cable-laying operations by using two 1,500 kW bow thrusters, two 1,500 kW aft thrusters, and one 1,500 kW fore thruster. Sound source measurements have not been conducted specific to the *C/S Ile de Brehat*, but other acoustical studies have shown thruster noise measurements ranging between 171 and 180 dB re 1 μPa (rms) at 1 m (Nedwell *et al.* 2003, MacGillivary 2006, Samsung 2009, Hartin *et al.* 2011, Deepwater Wind 2013, Tetra Tech 2014).

Various acoustical investigations in the Atlantic Ocean have modeled distances to the 120-dB isopleth, with results ranging between 1.4 and 3.575 km (Samsung 2009, Deepwater Wind 2013, Tetra Tech 2014) for water depths similar to where Quintillion would be operating in the Arctic Ocean. However, all these ranges were based on conservative modeling that included maximum parameters and worst-case assumptions.

Hartin *et al.* (2011) physically measured dynamic positioning noise from the 104-m (341-ft) *Fugro Synergy* operating in the Chukchi Sea while it was using thrusters (2,500 kW) more powerful than those used on the *C/S Ile de Brehat* (1,500 kW). Measured dominant frequencies were 110 to 140 Hz, and the measured (90th percentile) radius to the 120-dB isopleth was 2.3 km (1.4 mi). Because this radius is a measured value from the same water body where Quintillion's cable-laying operation would occur, as opposed to a conservatively modeled value from the Atlantic Ocean, it is the value used in calculating marine mammal exposure estimates. Sound source levels from the *Fugro Synergy* during dynamic positioning did not exceed 180 dB, thus there are no Level A harassment or injury concerns.

Acoustic Footprint

The acoustical footprint (total ensonified area) was determined by assuming that dynamic position would occur along all trunk and branch lines within the proposed fiber optics cable network, regardless of the cable-lay vessel used. The sum total of submerged cable length is 1,902.7 km (1,182.3 mi). Assuming that the radius to the 120-dB isopleth is 2.3 km (1.4 mi) (Hartin *et al.* 2011), then the total ensonified area represents a swath that is 1,902.7 km (1,182.3 mi) in length and 4.6 km (2.8 mi) in width (2 x 2.3 km) or 8,752.4 km^2 (3,379.3 mi^2). The Nome branch (194.7 km [121.0 mi]) and 87.1 km (54.1 mi) of the trunk line between branch unite (BU) Nome and BU Kotzebue fall within the Bering Sea. The combined length of those is 281.8 km (175.1 mi) and the total ensonified area is 1,296.3 km^2 (500.5 mi^2). The Oliktok branch (73.9 km [45.9 mi]) and 254.1 km (157.9 mi) of the trunk line between Barrow and Oliktok are found in the Beaufort Sea. Here the combined length is 328 km (203.8 mi) and total ensonified area is 1,508.8 km^2 (582.6 mi^2). The remaining area 5,947.3 km^2 (2,296.3 mi^2) falls within the Chukchi Sea.

Marine Mammal Densities

Density estimates for bowhead, gray, and beluga whales were derived from aerial survey data collected in the Chukchi and Beaufort seas during the 2011 to 2014 Aerial Surveys of Arctic Marine Mammals (ASAMM) program (Clarke *et al.* 2012, 2013, 2014, 2015). The planned cable routes cross ASAMM survey blocks 2, 11, and 12 in the Beaufort Sea, and blocks 13, 14, 18, 21, and 22 in the Chukchi Sea. Only data collected in these blocks were used to estimate densities for bowhead and gray whales. Beluga densities were derived from ASAMM data collected for the depth zones between 36 and 50 m (118 and 164 ft) within the Chukchi Sea between longitudes 157° and 169° W., and the depth zones between 21 and 200 m (68.9 and 656.2 ft) in the Beaufort Sea between longitudes 154° and 157° W. These depth zones reflect the depths where most of the cable-lay will occur. Harbor porpoise densities (Chukchi Sea only) are from Hartin *et al.* (2013), and ringed seal densities are from Aerts *et al.* (2014; Chukchi Sea) and Moulton and Lawson (2002; Beaufort Sea). Spotted and bearded seal densities in the Chukchi Sea are also from Aerts *et al.* (2014), while spotted and bearded seal densities in the Beaufort Sea were developed by assuming both represented 5 percent of ringed seal densities. Too few sightings have been made in the Chukchi and Beaufort seas for all other marine mammal species to develop credible density estimates.

The density estimates for the seven species are presented in Table 2 (Chukchi/Bering) and Table 3 (Beaufort) below. The specific parameters used in deriving these estimates are provided in the discussions that follow.

TABLE 2—MARINE MAMMAL DENSITIES (#/km^2) IN THE CHUKCHI AND BERING SEAS

Species	Summer	Fall
Bowhead Whale	0.0025	0.0438
Gray Whale	0.0680	0.0230
Beluga Whale	0.0894	0.0632
Harbor Porpoise	0.0022	0.0022
Ringed Seal	0.0846	0.0507
Spotted Seal	0.0423	0.0253

TABLE 2—MARINE MAMMAL DENSITIES (#/km²) IN THE CHUKCHI AND BERING SEAS—Continued

Species	Summer	Fall
Bearded Seal	0.0630	0.0440

TABLE 3—MARINE MAMMAL DENSITIES (#/km²) IN THE BEAUFORT SEA

Species	Summer	Fall
Bowhead Whale	0.0444	0.0742
Gray Whale	0.0179	0.0524
Beluga Whale	0.0021	0.0142
Ringed Seal	0.3547	0.2510
Spotted Seal	0.0177	0.0125
Bearded Seal	0.0177	0.0125

Bowhead Whale: The summer density estimate for bowhead whales was derived from June, July, and August aerial survey data collected in the Chukchi and Beaufort Sea during the 2011 to 2014 ASAMM program (Clarke *et al.* 2012, 2013, 2014, 2015). Fall data were collected during September and October. Data only from the survey blocks that will be crossed by the proposed cable route were used in the calculations, which included blocks 3, 11, and 12 in the Beaufort Sea and 13, 14, 18, 21, and 22 in the Chukchi Sea. ASAMM surveys did not extend more than about 25 km (15.5 mi) south of Point Hope, and there are no other systematic survey data for bowhead whales south of this point. During these four years, 87 bowhead whales were recorded in the three Beaufort Sea blocks during 12,161 km (7,556mi) of summer survey effort (0.0072/km), and 201 whales during 16,829 km (10,457mi) of fall effort (0.0019/km). In the five Chukchi Sea survey blocks, 11 bowheads were recorded during 27,183 km (16,891 mi) of summer effort (0.0004/km), and 160 during 22,678 km (14,091 mi) of fall survey (0.0071/km). Applying an effective strip half-width (ESW) of 1.15 (Ferguson and Clarke 2013), and a 0.07 correction factor (Ferguson, personal communication) for whales missed during the surveys, results in corrected densities of 0.0444 (Beaufort summer), 0.0742 (Beaufort fall), 0.0025 (Chukchi summer), and 0.0438 (Chukchi fall) whales per km² (Tables 2 and 3).

Gray whale: Gray whale density estimates were derived from the same ASAMM transect data used to determine bowhead whale densities. During the four years of aerial survey, 35 gray whales were recorded in the three Beaufort Sea blocks during 12,161 km (7,557 mi) of summer survey effort (0.0029/km), and 142 gray whales during 16,829 km (10,457 mi) of fall effort (0.0084/km). In the five Chukchi Sea survey blocks, 298 gray whales were recorded during 27,183 km (16,891 mi) of summer effort (0.0084/km), and 84 during 22,678 km (14,091 mi) of fall survey (0.0037/km). Applying an effective strip half-width (ESW) of 1.15 (Ferguson and Clarke 2013), and a correction factor of 0.07, results in corrected densities of 0.0179 (Beaufort summer), 0.0524 (Beaufort fall), 0.0680 (Chukchi summer), and 0.0230 (Chukchi fall) whales per km² (Tables 2 and 3).

Beluga Whale: Beluga whale density estimates were derived from the ASAMM transect data collected from 2011 to 2014 (Clarke *et al.* 2012, 2013, 2014, 2015). During the summer aerial surveys (June-August) there were 248 beluga whale observed along 3,894 km (2,420 mi) of transect in waters between 21 to 200 m (13–124 ft) deep and between longitudes 154 °W. and 157 °W. This equates to 0.0637 whales/km of trackline and a corrected density of 0.0894 whales per km², assuming an ESW of 0.614 km and a 0.58 correction factor (Ferguson, personal communication). Fall density estimates (September–October) for this region were based on 192 beluga whales seen along 4,267 km (2,651 mi). This equates to 0.0449 whales/km of trackline and a corrected density of 0.0632 whales per km², assuming an ESW of 0.614 km and a 0.58 correction factor.

During the summer aerial surveys (June–August), there were 30 beluga whales observed along 20,240 km (12,577 mi) of transect in waters less than 36 to 50 m (22–31 ft) deep and between longitudes 157 °W. and 169 °W. This equates to 0.0015 whales/km of trackline and a corrected density of 0.0021 whales per km², assuming an ESW of 0.614 km and a 0.58 correction factor. Calculated fall beluga densities for the same region was based on 231 beluga whales seen during 22,887 km of transect (1,794 mi). This equates to 0.0101 whales/km and a corrected density of 0.142 whales per km², again assuming an ESW of 0.614 km and a 0.58 correction factor.

Harbor Porpoise: Although harbor porpoise are known to occur in low numbers in the Chukchi Sea (Aerts *et al.* 2014), no harbor porpoise were positively identified during Chukchi Offshore Monitoring in Drilling Area (COMIDA) and ASAMM aerial surveys conducted in the Chukchi Sea from 2006 to 2013 (Clarke *et al.* 2011, 2012, 2013, 2014). A few small unidentified cetaceans that were observed may have been harbor porpoise. Hartin *et al.* (2013) conducted vessel-based surveys in the Chukchi Sea while monitoring oil and gas activities between 2006 and 2010 and recorded several harbor porpoise throughout the summer and early fall. Vessel-based surveys may be more conducive to sighting these small, cryptic porpoise than the aerial-based COMIDA/ASAMM surveys. Hartin *et al.*'s (2013) three-year average summer densities (0.0022/km²) and fall densities (0.0021/km²) were very similar, and are included in Table 2.

Ringed and Spotted Seals: Aerts et al. (2014) conducted a marine mammal monitoring program in the northeastern Chukchi Sea in association with oil & gas exploration activities between 2008 and 2013. For seal sightings that were either ringed or spotted seals, the highest summer density was 0.127 seals/km² (2008) and the highest fall density was 0.076 seals/km² (2013). Where seals could be identified to species, they found the ratio of ringed to spotted seals to be 2:1. Applying this ratio to the combined densities results in species densities of 0.0846 seals/km² (summer) and 0.0507 seals/km² (fall) for ringed seals, and 0.0423 seals/km² (summer) and 0.0253 seals/km² (fall) for spotted seals. These are the densities used in the exposure calculations (Table 2) and to represent ringed and spotted seal densities for both the northern Bering and Chukchi seas.

Moulton and Lawson (2002) conducted summer shipboard-based surveys for pinnipeds along the nearshore Alaskan Beaufort Sea coast, while Kingsley (1986) conducted surveys here along the ice margin representing fall conditions. The ringed seal results from these surveys were used in the exposure estimates (Table 3). Neither survey provided a good estimate of spotted seal densities. Green and Negri (2005) and Green *et al.* (2006, 2007) recorded pinnipeds during barging activity between West Dock and Cape Simpson, and found high numbers of ringed seal in Harrison Bay, and peaks in spotted seal numbers off the Colville River Delta where a haulout site is located. Approximately 5 percent of all phocid sightings recorded by Green and Negri (2005) and Green *et al.* (2006, 2007) were spotted seals, which provide a suitable estimate of the proportion of ringed seals versus spotted seals in the Colville River Delta and Harrison Bay, both areas close to the proposed Oliktok branch line. Thus, the estimated densities of spotted seals in the cable-lay survey area were derived by multiplying the ringed seal densities from Moulton and Lawson (2002) and Kingsley (1986) by 5 percent.

Spotted seals are a summer resident in the Beaufort Sea and are generally found in nearshore waters, especially in association with haulout sites at or near river mouths. Their summer density in the Beaufort Sea is a function of distance from these haul out sites. Near Oliktok Point (Hauser *et al.* 2008, Lomac-McNair *et al.* 2014) where the Oliktok cable branch will reach shore, they are more common than ringed seals, but they are very uncommon farther offshore where most of the Beaufort Sea cable-lay activity will occur. This distribution of density is taken into account in the take authorization request.

Bearded Seal: The most representative estimates of summer and fall density of bearded seals in the northern Bering and Chukchi seas come from the Aerts *et al.* (2014) monitoring program that ran from 2008 to 2013 in the northeastern Chukchi Sea. During this period the highest summer estimate was 0.063 seals/km² (2013) and the highest fall estimate was 0.044 seals/km² (2010). These are the values that were used in developing exposure estimates for this species for the northern Bering and Chukchi sea cable-lay areas (Table 2).

There are no accurate density estimates for bearded seals in the Beaufort Sea based on survey data. However, Stirling *et al.* (1982) noted that the proportion of eastern Beaufort Sea bearded seals is 5 *percent* that of ringed seals. Further, Clarke *et al.* (2013, 2014) recorded 82 bearded seals in both the Chukchi and Beaufort seas during the 2012 and 2013 ASAMM surveys, which represented 5.1 *percent* of all their ringed seal and small unidentified pinniped sightings (1,586). Bengtson *et al.* (2005) noted a similar ratio (6 *percent*) during spring surveys of ice seals in the Chukchi Sea. Therefore, the density values in Table 3 (/km²) were determined by multiplying ringed seal density from Moulton and Lawson (2002) and Kingsley (1986) by 5 *percent* as was done with spotted seals.

Level B Exposure Calculations

The estimated potential harassment take of local marine mammals by Quintillion's fiber optics cable-lay project was determined by multiplying the seasonal animal densities in Tables 2 and 3 with the seasonal area that would be ensonified by thruster noise greater than 120 dB re 1 μPa (rms). The total area that would be ensonified in the Chukchi Sea is 5,947 km² (2,296 mi²), and for the Bering Sea is 1,296 km² (500 mi²). Since there are no marine mammal density estimates for the northern Bering Sea, the ensonified area was combined with the Chukchi Sea for a total ZOI of 7,243 km² (2,796 mi²). The ensonified area for the Beaufort Sea is 1,509 km² (583 mi²).

Because the cable-laying plan is to begin in the south as soon as ice conditions allow and work northward, the intention is to complete the Bering and Chukchi seas portion of the network (1,575 km, [979 mi]) during the summer (June to August), and Beaufort Sea portion (328 km [204 mi]) during the fall (September and October). Thus, summer exposure estimates apply for the Bering and Chukchi areas and the fall exposure estimates for the Beaufort (Table 4).

TABLE 4—THE AUTHORIZED NUMBER OF LEVEL B HARASSMENT EXPOSURES TO MARINE MAMMALS

Species	Exposures Bering/ Chukchi	Exposures Beaufort	Exposures total
Bowhead Whale	18	112	*130*
Gray Whale	493	79	*572*
Beluga Whale	648	21	*669*
Harbor Porpoise	16	0	*16*
Ringed Seal	613	379	*992*
Spotted Seal	306	19	*325*
Bearded Seal	451	19	*470*

The estimated takes of marine mammals are based on the estimated exposures for marine mammals with known density information. For marine mammals whose estimated number of exposures were not calculated due to a lack of reasonably accurate density estimates, but for which occurrence records within the project area exist (*i.e.*, humpback whale, fin whale, minke whale, killer whale, and ribbon seal), a small number of takes relatively based on group size and site fidelity have been requested in case they are encountered. A summary of estimated takes is provided in Table 5.

TABLE 5—LEVEL B TAKE REQUEST AS PERCENTAGE OF STOCK

Species	Stock abundance	Level B take authorized	Request Level B take by stock (%)
Bowhead whale	19,534	130	0.8
Beluga whale (Beaufort Sea stock)	39,258	669	1.7

TABLE 5—LEVEL B TAKE REQUEST AS PERCENTAGE OF STOCK—Continued

Species	Stock abundance	Level B take authorized	Request Level B take by stock (%)
Beluga whale (E. Chukchi Sea stock)	3,710	669	18.0
Beluga whale (E. Bering Sea stock)	19.186	669	3.5
Gray whale	20,990	572	2.7
Humpback whale (W.N. Pacific stock)	1,107	15	1.36
Humpback whale (Cent. N. Pacific stock)	10,103	15	0.14
Fin whale	1,652	15	0.91
Minke whale	1,233	5	0.40
Killer whale	2,347	5	0.21
Harbor porpoise	48,215	16	0.03
Ringed seal	249,000	992	0.49
Spotted seal	460,268	325	0.07
Bearded seal	155,000	470	0.08
Ribbon seal	61,100	5	0.01

The estimated Level B takes as a percentage of the marine mammal stock are less than 18 *percent* in all cases (Table 5). The highest percent of population estimated to be taken is 18 *percent* for Level B harassments of the East Chukchi Sea stock of beluga whale. However, that percentage assumes that all beluga whales taken are from that population. Most likely, some beluga whales would be taken from each of the three stocks, meaning fewer than 669 beluga whales would be taken from any individual stock. The Level B takes of beluga whales as a percentage of populations would likely be below 1.7, 18, and 3.5 *percent* for the Beaufort Sea, East Chukchi Sea, and East Bering Sea stocks, respectively.

Analysis and Determinations

Negligible Impact

Negligible impact is "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival" (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be "taken" through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

To avoid repetition, this introductory discussion of our analyses applies to all the species listed in Table 5, given that the anticipated effects of Quintillion's subsea cable-laying operation on marine mammals, taking into account the proposed mitigation, are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they are described separately in the analysis below.

No injuries or mortalities are anticipated to occur as a result of Quintillion's subsea cable-laying operation, and none are authorized. Additionally, animals in the area are not expected to incur hearing impairment (*i.e.*, temporary hearing threshold shift [TTS] or permanent hearing threshold shift [PTS]) or non-auditory physiological effects. The takes that are anticipated and authorized are expected to be limited to short-term Level B behavioral harassment in the form of brief startling reaction and/or temporary vacating of the area.

Any effects on marine mammals are generally expected to be restricted to avoidance of a limited area around Quintillion's proposed activities and short-term changes in behavior, falling within the MMPA definition of "Level B harassment." Mitigation measures, such as controlled vessel speed and dedicated marine mammal observers, will ensure that takes are within the level being analyzed. In all cases, the effects are expected to be short-term, with no lasting biological consequence.

Of the 12 marine mammal species likely to occur in the proposed cable-laying area, bowhead, humpback, and fin whales are listed as endangered under the ESA. These species are also designated as "depleted" under the MMPA. None of the other species that may occur in the project area are listed as threatened or endangered under the ESA or designated as depleted under the MMPA.

The project area of the Quintillion's proposed activities is within areas that have been identified as biologically important areas (BIAs) for feeding for the gray and bowhead whales and for reproduction for gray whale during the summer and fall months (Clarke *et al.* 2015). In addition, the coastal Beaufort Sea also serves as a migratory corridor during bowhead whale spring migration, as well as for their feeding and breeding activities. Additionally, the coastal area of Chukchi and Beaufort seas also serve as BIAs for beluga whales for their feeding and migration. However, Quintillion's proposed cable-laying operation would only briefly transit through the area in a slow speed (600 meters per hour). As discussed earlier, the Level B behavioral harassment of marine mammals from the proposed activity is expected to be brief startling reaction and temporary vacating of the area. There is no long-term biologically significant impact to marine mammals expected from the proposed subsea cable-laying activity.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS finds that the total marine mammal take from Quintillion's proposed subsea cable-laying operation in the Bering, Chukchi, and Beaufort seas is not expected to adversely affect the affected species or stocks through impacts on annual rates of recruitment or survival, and therefore will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

The requested takes represent less than 18 *percent* of all populations or stocks potentially impacted (see Table 5 in this document). These take estimates represent the percentage of each species or stock that could be taken by Level B behavioral harassment. The numbers of marine mammals estimated to be taken are small proportions of the total populations of the affected species or stocks.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, NMFS finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

The planned cable-lay activities will occur within the marine subsistence areas used by the villages of Nome, Wales, Kotzebue, Little Diomede, Kivalina, Point Hope, Wainwright, Barrow, and Nuiqsut. Subsistence use varies considerably by season and location. Seven of the villages hunt bowhead whales (Suydam and George 2004). The small villages of Wales, Little Diomedes, and Kivalina take a bowhead whale about once every five years. Point Hope and Nuiqsut each harvest three to four whales annually, and Wainwright five to six. Harvest from Barrow is by far the highest, with about 25 whales taken each year, generally split between spring and fall hunts. Point Hope and Wainwright harvest occurs largely during the spring hunt, and Nuiqsut's during the fall. Nuiqsut whalers base from Cross Island, located 70 km (44 mi) east of Oliktok.

Beluga are also annually harvested by the above villages. Beluga harvest is most important to Point Hope. For example, the village harvested 84 beluga whales during the spring of 2012, and averaged 31 whales a year from 1987 to 2006 (Frost and Suydam 2010). Beluga are also important to Wainwright village. They harvested 34 beluga whales in 2012, and averaged 11 annually from 1987 to 2006 (Frost and Suydam 2010). All the other villages—Nome, Kotzebue, Wales, Kivalina, Little Diomede, and Barrow—averaged less than 10 whales a year (Frost and Suydam 2010).

All villages utilize seals to one degree or another as well. Ringed seal harvest mostly occurs in the winter and spring when they are hauled out on ice near leads or at breathing holes. Bearded seals are taken from boats during the early summer as they migrate northward in the Chukchi Sea and eastward in the Beaufort Sea. Bearded seals are a staple for villages like Kotzebue and Kivalina that have limited access to bowhead and beluga whales (Georgette and Loon 1993). Thetis Island, located just off the Colville River Delta, is an important base from which villagers from Nuiqsut hunt bearded seals each summer after ice breakup. Spotted seals are an important summer resource for Wainwright and Nuiqsut, but other villages will avoid them because the meat is less appealing than other available marine mammals.

The planned cable-lay activity will occur in the summer after the spring bowhead and beluga whale hunts have ended, and will avoid the ice period when ringed seals are harvested. The Oliktok branch will pass within 4 km (2 mi) of Thetis Island, but the laying of cable along that branch would occur in late summer or early fall, long after the bearded seal hunt is over.

Based on the planned cable-lay time table relative to the seasonal timing of the various subsistence harvests, cable-lay activities into Kotzebue (bearded seal), Wainwright (beluga whale), and around Point Barrow (bowhead whale) could overlap with important harvest periods. Quintillion will work closely with the AEWC, the Alaska Beluga Whale Committee, the Ice Seal Committee, and the North Slope Borough to minimize any effects cable-lay activities might have on subsistence harvest.

Plan of Cooperation or Measures To Minimize Impacts to Subsistence Hunts

Regulations at 50 CFR 216.104(a)(12) require IHA applicants for activities that take place in Arctic waters to provide a POC or information that identifies what measures have been taken and/or will be taken to minimize adverse effects on the availability of marine mammals for subsistence purposes.

Quintillion has prepared a POC, which was developed by identifying and evaluating any potential effects the proposed cable-laying operation might have on seasonal abundance that is relied upon for subsistence use.

Specifically, Quintillion has contracted with Alcatel-Lucent Submarine Networks to furnish and install the cable system. Alcatel-Lucent's vessel, C/S *Ile de Brehat,* participates in the Automatic Identification System (AIS) vessel tracking system allowing the vessel to be tracked and located in real time. The accuracy and real time availability of AIS information via the web for the Bering, Chukchi, and Beaufort seas will not be fully known until the vessels are in the project area. If access to the information is limited, Quintillion will provide alternate vessel information to the public on a regular basis. Quintillion can aid and support the AIS data with additional information provided to the local search and rescue, or other source nominated during the community outreach program.

In addition, Quintillion will communicate closely with the communities of Pt. Hope, Pt. Lay, and Wainwright should activities progress far enough north in late June to mid-July when the villages are still engaged with their annual beluga whale hunt. Quintillion will also communicate closely with the communities of Wainwright, Barrow, and Nuiqsut to minimize impacts on the communities' fall bowhead whale subsistence hunts, which typically occur during late September and into October.

Prior to starting offshore activities, Quintillion will consult with Kotzebue, Point Hope, Wainwright, Barrow, and Nuiqsut as well as the North Slope Borough, the Northwest Arctic Borough, and other stakeholders such as the EWC, the AEWC, the Alaska Beluga Whale Committee (ABWC), and the Alaska Nanuuq Commission (ANC). Quintillion will also engage in consultations with additional groups on request.

A copy of the POC can be viewed on the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.html.*

Endangered Species Act (ESA)

Within the project area, the bowhead, humpback, and fin whales are listed as endangered under the ESA. NMFS' Permits and Conservation Division consulted with staff in NMFS' Alaska Region Protected Resources Division under section 7 of the ESA on the issuance of an IHA to Quintillion under section 101(a)(5)(D) of the MMPA for this activity. In May 2016, NMFS finished conducting its section 7 consultation and issued a Biological Opinion concluding that the issuance of the IHA associated with Quintillion's subsea cable-laying operations in the Bering, Chukchi, and Beaufort seas during the 2016 open-water season is not likely to jeopardize the continued existence of the endangered bowhead, humpback, and fin whales. No critical habitat has been designated for these species, therefore none will be affected.

National Environmental Policy Act (NEPA)

NMFS prepared an Environmental Assessment (EA) that includes an analysis of potential environmental effects associated with NMFS' issuance of an IHA to Quintillion to take marine mammals incidental to conducting subsea cable-laying operations in the Bering, Chukchi, and Beaufort seas. The draft EA was available to the public for a 30-day comment period before it was finalized. NMFS has finalized the EA and prepared a Finding of No Significant Impact (FONSI) for this action. The FONSI was signed in May, prior to this issuance of the IHA. Therefore, preparation of an Environmental Impact Statement is not necessary.

Authorization

As a result of these determinations, NMFS has issued an IHA to Quintillion for the take of marine mammals, by Level B harassment, incidental to conducting subsea cable-laying operations in the Bering, Chukchi, and Beaufort seas during the 2016 open-water season, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: June 16, 2016.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE688

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Assessment Webinar for Gulf of Mexico Data-Limited Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of SEDAR 49 Assessment Webinar I for Gulf of Mexico Data-Limited Species.

SUMMARY: The SEDAR 49 assessment of the Gulf of Mexico Data-Limited Species will consist of a data workshop, a review workshop, and a series of Assessment Webinars.

DATES: The SEDAR 49 Assessment Webinar I will be held on Tuesday, July 12, 2016, from 3 p.m. to 5 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held via Webinar. The Webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see Contact Information Below) to request an invitation providing Webinar access information. Please request Webinar invitations at least 24 hours in advance of each Webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION:

Agenda

The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop; (2) Assessment Process utilizing Webinars; and (3) Review Workshop. The product of the Data Workshop is a data report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Assessment Process Webinars are as follows:

1. Using datasets and initial assessment analysis recommended from the Data Workshop, panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.
2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 16, 2016.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–14590 Filed 6–20–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0658–XE690

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of SEDAR 50 Stock ID Work Group Post-Meeting Webinar.

SUMMARY: The SEDAR 50 assessment(s) of the Atlantic stock(s) of blueline

tilefish will consist of a series of workshops and webinars: Stock ID Work Group Meeting; Data Workshop; Assessment Workshop and Webinars; and a Review Workshop.

DATES: The SEDAR 50 Stock ID Work Group Post-Meeting Webinar will be held on Thursday, July 7, 2016, from 10 a.m. until 12 p.m.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julia Byrd at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR Address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Julia Byrd, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366; email: *julia.byrd@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the Stock ID Work Group post-meeting webinar are as follows:

Participants will finalize recommendations from the Stock ID Work Group meeting as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Dated: June 16, 2016.

Tracey L. Thompson,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–14605 Filed 6–20–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2016–0025]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Rights in Technical Data and Computer Software (OMB Control Number 0704–0369)

AGENCY: Defense Acquisition Regulations System; Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use under Control Number 0704–0369 through September 30, 2016. DoD proposes that OMB approve an extension of the information collection requirement, to expire three years after the approval date.

DATES: DoD will consider all comments received by August 22, 2016.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0332, using any of the following methods:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

○ *Email: dfars@mail.mil.* Include OMB Control Number 0704–0225 in the subject line of the message.

○ *Fax:* (571) 372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy G. Williams, OUSD (AT&L) DPAP/DARS, Rm. 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, at (571)372–6106. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html.* Paper copies are available from Ms. Amy Williams, OUSD (AT&L) DPAP (DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 227.71, Rights in Technical Data, and Subpart

227.72, Rights in Computer Software and Computer Software Documentation, and related provisions and clauses of the Defense Federal Acquisition Regulation Supplement (DFARS); OMB Control Number 0704–0369.

Needs and Uses: DFARS Subparts 227.71 and 227.72 prescribe the use of solicitation provisions and contract clauses containing information collection requirements that are associated with rights in technical data and computer software. DoD needs this information to implement 10 U.S.C. 2320, Rights in technical data, and 10 U.S.C. 2321, Validation of proprietary data restrictions. DoD uses the information to recognize and protect contractor rights in technical data and computer software that are associated with privately funded developments; and to ensure that technical data delivered under a contract are complete and accurate and satisfy contract requirements.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Number of Respondents: 75,250.

Responses per Respondent: About 13.

Annual Responses: 959,602.

Average Burden per Response: About 1 hour.

Annual Response Burden Hours: 904,574 hours.

Annual Recordkeeping Burden Hours: 90,600 hours.

Total Annual Burden Hours: 995,174 hours.

Frequency: On occasion.

Summary of Information Collection

DoD uses the following DFARS provisions and clauses in solicitations and contracts to require offerors and contractors to identify and mark data or software requiring protection from unauthorized use, release, or disclosure in accordance with 10 U.S.C. 2320:

252.227–7013, Rights in Technical Data—Noncommercial Items.

252.227–7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation.

252.227–7017, Identification and Assertion of Use, Release, or Disclosure Restrictions.

252.227–7018, Rights in Noncommercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program.

In accordance with 10 U.S.C. 2320(a)(2)(D), DoD may disclose limited rights data to persons outside the Government, or allow those persons to use data with use, release, or disclosure restrictions, if the recipient agrees not to further release, disclose, or use the data. Therefore, the clause at DFARS 252.227–7013, Rights in Technical Data—Noncommercial Items, requires the contractor to identify and mark data or software that it provides with limited rights.

In accordance with 10 U.S.C. 2321(b), contractors and subcontractors at any tier must be prepared to furnish written justification for any asserted restriction on the Government's rights to use or release data. The following DFARS clauses require contractors and subcontractors to maintain adequate records and procedures to justify any asserted restrictions:

252.227–7019, Validation of Asserted Restrictions—Computer Software.

252.227–7037, Validation of Restrictive Markings on Technical Data.

In accordance with 10 U.S.C. 2320, DoD must protect the rights of contractors that have developed items, components, or processes exclusively at private expense. Therefore, the clause at DFARS 252.227–7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends, requires a contractor or subcontractor to submit a use and non-disclosure agreement when it obtains data from the Government to which the Government has less than unlimited rights. In addition, DFARS 227.7103–7, Use and non-disclosure agreement, requires intended recipients of technical data or computer software delivered to the Government with restrictions on use, modification, reproduction, release, performance, display, or disclosure, to sign the use and non-disclosure agreement at 227.7103–7(c) prior to release or disclosure of the data, unless the recipient is a Government contractor that requires access to a third parties data or software for the performance of a Government contract that contains the clause at 252.227–7025, Limitations on Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends. According to 10 U.S.C. 2320(a)(2)(D), DoD may disclose limited rights data to persons outside the Government, or allow those persons to use limited rights data, if the recipient agrees not to further use, release, or disclose the data.

The provision at DFARS 252.227–7028, Technical Data or Computer Software Previously Delivered to the Government, requires an offeror to identify any technical data or computer software that it previously delivered, or will deliver, under any Government contract. DoD needs this information to avoid paying for rights in technical data or computer software that the Government already owns.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2016–14634 Filed 6–20–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2016–0024; (OMB Control Number 0704–0332)]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; DoD Pilot Mentor-Protege Program

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection under Control Number 0704–0332 for use through September 30, 2016. DoD proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD will consider all comments received by August 22, 2016.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0332, using any of the following methods:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

○ *Email: dfars@mail.mil.* Include OMB Control Number 0704–0225 in the subject line of the message.

○ *Fax:* (571) 372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Jennifer Johnson, OUSD(AT&L)DPAP/DARS, Rm. 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Johnson, at (571) 372–6100. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html.* Paper copies are available from Ms. Jennifer Johnson, OUSD (AT&L) DPAP (DARS), Room 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Appendix I, DoD Pilot Mentor-Protege Program; OMB Control Number 0704–0332.

Needs and Uses: DoD needs this information to ensure that participants in the Mentor-Protege Program ("the Program") are fulfilling their obligations under the mentor-protege agreements and that the Government is receiving value for the benefits it provides through the Program. DoD uses the information as source data for reports to Congress required by section 811(d) of the National Defense Authorization Act for Fiscal Year 2000 (Pub. L. 106–65). Participation in the Program is voluntary.

Affected Public: Businesses and other for-profit entities and not-for-profit institutions.

Number of Respondents: 112.

Responses per Respondent: 1.97.

Annual Responses: 240.

Average Burden per Response: Approximately 1.0 hour.

Annual Response Burden Hours: 240.

Reporting Frequency: Two times per year for mentor firms; one time per year for protege firms.

Summary of Information Collection

DFARS Appendix I, section I–112.2(a)–(d), requires mentor firms to report on the progress made under active mentor-protege agreements semiannually for the periods ending March 31 and September 30. The September 30 report must address the entire fiscal year. Reports must include the following:

(1) Data on performance under the mentor-protege agreement, including dollars obligated, expenditures, subcontracts awarded to the protege firm, developmental assistance provided, impact and progress of the agreement.

(2) A copy of the Individual Subcontracting Report (ISR) or SF 294 and Summary Subcontracting Report (SSR) for each contract where developmental assistance was credited to subcontracting goals.

Section I–112.2(e) requires protege firms to submit reports on an annual basis. Reports must include progress made by the protege firm in employment, revenues, and participation in DoD contracts during each fiscal year of the Program participation term and each of the two fiscal years following the expiration of the Program participation term. During the Program participation term, the protege firms may provide this data to the mentor firm for inclusion in the mentor report required by I–112(a)–(d) for the period ending September 30.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2016–14619 Filed 6–20–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Government-Industry Advisory Panel; Request for Information on Rights in Technical Data and the Validation of Proprietary Data Restrictions

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Government-Industry Advisory Panel, a Department of Defense (DoD) advisory committee established in accordance with the Federal Advisory Committee Act (FACA), is seeking information to facilitate a review of sections 2320 and 2321 of Title 10 of the United States Code (U.S.C.), regarding rights in technical data and the validation of proprietary data restrictions.

DATES: Submit written comments to the address shown in the **ADDRESSES** section on or before July 21, 2016.

ADDRESSES: Submit comments to Office of the Assistant Secretary of Defense (Acquisition), ATTN: LTC Andrew Lunoff/Designated Federal Officer (DFO), 3090 Defense Pentagon, Washington, DC 20301–3090; or by email to *andrew.s.lunoff.mil@mail.mil.*

FOR FURTHER INFORMATION CONTACT: LTC Andrew Lunoff, Office of the Assistant Secretary of Defense (Acquisition), 3090 Defense Pentagon, Washington, DC 20301–3090; email: *andrew.s.lunoff.mil@mail.mil;* phone: 571–256–9004.

SUPPLEMENTARY INFORMATION: Section 813 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016 required DoD to establish the Government-Industry Advisory Panel for the purpose of reviewing 10 U.S.C. 2320 and 2321, regarding rights in technical data and the validation of proprietary data restrictions, and the regulations implementing such sections, for the purpose of ensuring that such statutory and regulatory requirements are best structured to serve the interests of the taxpayers and the national defense. The advisory panel is to give appropriate consideration to the following: (1) Ensuring that DoD does not pay more than once for the same work; (2) ensuring that the DoD contractors are appropriately rewarded for their innovation and invention; (3) providing for cost-effective re-procurement, sustainment, modification, and upgrades to the DoD systems; (4) encouraging the private sector to invest in new products, technologies, and processes relevant to the missions of the DoD; and (5) ensuring that the DoD has appropriate access to innovative products, technologies, and processes developed by the private sector for commercial use.

The regulatory implementation of 10 U.S.C. 2320 and 2321 are in the Defense Federal Acquisition Regulation Supplement (DFARS) at subpart 227.71, covering both commercial and noncommercial technical data. This regulatory scheme is also adapted to cover computer software in DFARS subpart 227.72, where nearly all elements of the technical data scheme are applied to noncommercial computer software, but not to commercial computer software. Thus, although the statutory sections apply only to technical data, the regulatory implementation has historically also affected how DoD acquires and manages computer software and, therefore, is another factor to be considered. In addition, a significant streamlining and integration of these DFARS subparts was published for public comment in 2010 entitled "Patent, Data, and Copyrights (DFARS case 2010–D001)" (see 75 FR 59411); the key elements of that proposed revision of regulatory scheme, and the public comments received in response to that proposed rule, may be considered under these efforts.

DoD has also developed a considerable body of policy and guidance to further implement and manage technical data and computer software issues in the context of DoD acquisition programs. Most recently, DoD's Better Buying Power (BBP) activities have included direction to "enforce open system architectures and effectively manage technical data rights," which have spawned numerous key updates to DoD policy and guidance. For example, DoD Instruction 5000.02, "Operation of the Defense Acquisition System," was revised to require program managers to develop and maintain an Intellectual Property (IP) Strategy throughout the entire program life cycle, with additional guidance on this new requirement being provided in an "Intellectual Property Strategy" guidance document and within DoD's "Guidelines For Creating and Maintaining a Competitive Environment for Supplies and Services in the Department of Defense." DoD has also incorporated IP considerations into its training for the DoD workforce (*e.g.*, through the Defense Acquisition University) and its outreach activities to industry (*e.g.*, white paper entitled "DoD, Innovation, and Intellectual Property in Commercial & Proprietary Technologies").

Links to all of these statutes, regulations, policy, and guidance documents, as well as additional related materials, are provided at *https://database.faca.gov/committee/committee.aspx?cid=2561.*

As a representative sample of the core elements of the cited DoD policy and guidance, the following guiding principles for a strategic approach to IP management are discussed in more detail in the "Intellectual Property Strategy" guidance document:

1. Anticipate and plan for sustainment and competition over the entire system life cycle.
2. Align and integrate the IP Strategy with other program strategies and plans.
3. Just do it: Delivery now to ensure return on investment (ROI) for DoD-funded development (or prior acquisition).
4. But don't make an unnecessary "grab" for deliverables or license rights for "proprietary" IP.
5. Before and after: Up-front evaluation and back-end validation of IP deliverables and license rights assertions.

In order to facilitate the panel's review of 10 U.S.C. 2320 and 2321 and the regulations implementing these sections, public comment is requested, using the factors and additional considerations summarized in this notice, on the following:

1. Any issues, concerns, benefits, and/or appropriateness of 10 U.S.C. 2320 and/or 2321.
2. Any issues, concerns, benefits, and/or appropriateness of the current implementing DFARS regulations (subparts 227.71 and 227.72, and associated clauses), including the extent to which these regulations are consistent with and effective in implementing 10 U.S.C. 2320 and 2321.
3. Any issues, concerns, benefits, and/or appropriateness of DoD's policy and guidance on IP strategy and management, including the extent to which such DoD policy and guidance is consistent with and effective in further implementing the cited governing statutes and regulations.
4. Any issues/concerns associated with whether and how DoD personnel are prepared and equipped to implement DoD's IP policy and guidance, and/or the governing statutes and regulations, including via DoD's training curriculum, or otherwise.
5. The current approach in regulation (DFARS 227.71 and 227.72) of extending and adapting the scheme of 10 U.S.C. 2320 and 2321 to apply to computer software, including the approach whereby most of the statutory scheme is applied to noncommercial computer software but not to commercial computer software.
6. The current approach in regulation of treating "Rights in Technical Data" and "Rights in Computer Software and Computer Software Documentation" as two separate topics/subparts (*i.e.*, DFARS 227.71 and 227.72, respectively), or whether they should be merged into a single topic/subpart.
7. The applicability of 10 U.S.C. 2320 and 2321, and the implementing DFARS requirements and clauses, to contracts and subcontracts for commercial items.
8. Practices used by DoD in acquiring IP from non-traditional contractors, commercial contractors, and traditional contractors. The request isn't limited to where the law or regulations require a specific practice, but also includes where the Department uses a practice not required by law/regulation. For example, any of the following:
   a. What worked?
   b. What didn't work?
   c. What was fair?
   d. What wasn't fair?
   e. What practices encourage or discourage non-traditional contractors from entering the defense marketplace?
   f. What practices encourage or discourage commercial contractors from entering the defense marketplace?
   g. What practices encourage or discourage traditional contractors from privately investing in new products, technologies, and processes relevant to the missions of the DoD?
9. IP acquisition practices used by DoD that encourage or discourage use of commercial technologies. For example, any of the following:
   a. What practices encourage or discourage vendors from providing DoD access to innovative products, technologies, and processes that have been developed for commercial use?
   b. What practices encourage or discourage the transition of Defense specific technologies into the commercial marketplace?
10. Any issues, concerns, benefits, and/or appropriateness of DoD's policy, guidance, and practices that link technical data management and other IP considerations with open systems architectures (OSA), and/or modular open systems approaches (MOSA).
11. Any issues, concerns, benefits, and/or appropriateness with sections 1701 (Modular Open System Approach in Development of Major Weapon Systems) and 1705 (Amendments Relating to Technical Data Rights) of the House Armed Services Committee markup of H.R. 4909, the NDAA for FY 2017.

Commenters are requested to include specific citations to law, regulations, DoD policy and/or guidance, as well as examples and supporting data (*e.g.*, specific DoD solicitations and/or contracts that demonstrate DoD practices) to support their comments, to the extent available. Because the Panel is subject to the FACA, materials will be made available to the public when provided to the Panel members.

Comments submitted in response to this request for information will be used solely for the review of 10 U.S.C. 2320 and 2321 and the current implementing regulations by the Government-Industry Advisory Panel, pursuant to section 813 of the NDAA for FY 2016.

Please note that the Defense Acquisition Regulation System has separately published for public comment the following proposed rules to amend the DFARS regarding rights in technical data:

- Rights in Technical Data (DFARS case 2016–D008) (see 81 FR 28812–28816; published May 10, 2016).
- Rights in Technical Data and the Validation of Proprietary Data Restrictions (DFARS case 2012–D022) (see 81 FR 39482–39503; published June 16, 2016).

Comments on these proposed DFARS rules must be submitted in accordance with the specific instructions published in each proposed rule in order to be considered in the formation of any final rule resulting therefrom.

Dated: June 16, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–14608 Filed 6–20–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0046]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Trends in International Mathematics and Science Study (TIMSS 2019) Pilot Test Recruitment

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 21, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0046. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 2E–347, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact NCES Information Collections at *NCES.Information.Collections@ed.gov.*

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Trends in International Mathematics and Science Study (TIMSS 2019) Pilot Test Recruitment.

OMB Control Number: 1850–0695.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 1,464.

Total Estimated Number of Annual Burden Hours: 324.

Abstract: The Trends in Mathematics and Science Study (TIMSS) is an international assessment of fourth and eighth grade students' achievement in mathematics and science. Since its inception in 1995, TIMSS has continued to assess students every 4 years. The United States will participate in TIMSS 2019 to continue to monitor the progress of its students compared to that of other nations and to provide data on factors that may influence student achievement. New in 2019, TIMSS will be a technology-based assessment conducted in an electronic format. TIMSS is designed by the International Association for the Evaluation of Educational Achievement (IEA), and is conducted in the U.S. by the National Center for Education Statistics (NCES). In preparation for the TIMSS 2019 main study, in April 2017, U.S. will participate in a pilot study to assist in the development of eTIMSS, and then U.S. will implement a field test, from March through April 2018, to evaluate new assessment items and background questions. This submission describes the plans for recruiting schools, teachers, and students for the pilot study beginning in October 2016. Recruitment for the field test will begin in May 2017, and recruitment for the main study in May of 2018. In the summer of 2016, NCES will submit a separate request for the pilot data collection and recruitment for the 2018 field test, including draft versions of the pilot test questionnaires.

Dated: June 15, 2016.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–14563 Filed 6–20–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2426–225 and Project No. 2426–226]

California Department of Water Resources and Los Angeles Department of Water and Power; Notice of Applications Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection.

a. *Type of Applications:* Amendment of License.

b. *Project No.:* 2426–225, 2426–226.

c. *Date Filed:* March 10 and March 31, 2016.

d. *Applicant:* California Department of Water and Los Angeles Department of Water and Power.

e. *Name of Project:* South SWP Hydropower Project.

f. *Location:* The South SWP Hydropower Project is located on the California Aqueduct in San Bernardino, Los Angeles, and Kern counties, California. The project occupies U.S. lands administered by the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ted Craddock, Chief, Hydropower License Planning and Compliance Office, California Department of Water Resources, P.O. Box 942836, Sacramento, California 94236–0001, (916) 557–4555; and John R. Dennis, Director, Power Planning and

Development, Los Angeles Department of Water and Power, 111 North Hope Street, Room 921, Los Angeles, California 90012; (213) 367–0881.

i. *FERC Contact:* Kim Carter, (202) 502–6486, *Kim.Carter@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance of this notice by the Commission. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/doc-sfiling/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2426–225, -226.

k. *Description of Request:* The applicant proposes to: (1) Amend the South SWP Hydropower Project license to remove a 640-foot-long, 115-kV transmission line and a 1.0-mile-long, 115-kV transmission line at the Devil Canyon Power Drop Development. The licensee states that the lines are part of Southern California Edison's distribution lines; and (2) add a new 230-kV transmission line at the Castaic Power Drop along the existing transmission tower bay from the Castaic to Haskell substations, including all necessary appurtenant components (*i.e.,* circuit breaker, transformer, relays, controls, metering, and telecommunications equipment).

l. *Locations of the Applications:* A copy of the applications are available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. The filings may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Motions to Intervene, or Protests:* Anyone may submit comments, a motion to intervene, or a protest in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, motions to intervene, or protests must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title "COMMENTS", "MOTION TO INTERVENE", or "PROTEST" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license amendments. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: June 15, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–14596 Filed 6–20–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–467–000]

ANR Pipeline Company; Notice of Application

Take notice that on June 3, 2016, ANR Pipeline Company (ANR), 700 Louisiana Street, Suite 700, Houston, TX 77002–2700, filed an application pursuant to section 7(b) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations, requesting authorization to implement the permanent and temporary abandonment of certain facilities, horsepower, and design capacity at its Grand Chenier Compressor Station (CS), located in Cameron Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may also be viewed on the web at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application should be directed to Linda Farquhar, Manager, Project Determinations and Regulatory Administration, ANR Pipeline Company, 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, by phone (832) 320–5685, or by email at *linda_farquhar@transcanada.com.*

Specifically, ANR states that Grand Chenier CS is currently certificated at 16,200 horsepower (HP) and has two units, one rated at 8,100 HP and the other ISO-rated at 9,700 HP. However, ANR has determined that it can continue to meet current transportation requirements without compression at the Grand Chenier CS. Thus, ANR proposes to permanently abandon 6,500 HP of certificated horsepower at its Grand Chenier CS. In order to effectuate this, ANR proposes to abandon in place its 8,100 HP compressor unit. In addition, ANR proposes to temporarily abandon the remaining certificated 9,700 HP and 192 million cubic feet per day of design capacity for a period of up to 36 months. ANR states that this proposed temporary action will allow ANR time to evaluate whether market demand predicates the need to retain this horsepower and to react quickly to any changing market conditions in the region. ANR states that the implementation of the Project will not impact ANR's ability to serve existing firm contracts.

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 5 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and five copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on July 6, 2016.

Dated: June 15, 2016.

Kimberly Bose,

Secretary.

[FR Doc. 2016–14595 Filed 6–20–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–456–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Shidler Line Segment Abandonment Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Shidler Line Segment Abandonment Project proposed by Southern Star Central Gas Pipeline, Inc. (Southern Star). The project involves abandonment of about 31.2 miles of 16-inch-diameter natural gas pipeline and removal of certain pipeline and aboveground facilities in Osage County, Oklahoma. The Commission will use this EA in its decision-making process to determine whether to authorize the project.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before July 9, 2016.

If you sent comments on this project to the Commission before the opening of this docket on May 6, 2016, you will need to file those comments in Docket No. CP16–456–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement for temporary workspace or access roads to abandon the facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" is available for viewing on the FERC Web site (*www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "*eRegister.*" If you are filing a comment on a particular project, please select "Comment on a Filing" as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP16–456–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Summary of the Proposed Project

Southern Star proposes to abandon about 31.2 miles of 16-inch-diameter pipeline and appurtenant facilities of the Shidler Line (also referred to as "Line ME" or the "Blackwell-Cotton Valley Line"), in Osage County, Oklahoma. The abandonment will require cutting and capping of the pipeline just east of the Shidler Town Border and slightly west of the Bowring Meter Station. Exposed pipeline would be removed at three stream crossings and would be cut, capped, and filled with grout at two improved road crossings. All associated aboveground facilities would be removed, including two mainline valve settings, three domestic taps, four rectifiers, 14 cathodic protection test stations, and the pipeline markers. The remainder of facilities would be abandoned in place.

According to Southern Star, the abandonment is proposed due to corrosion on the Shidler Line that would require costly maintenance and integrity analysis to maintain service, and the pipeline is not necessary to support current or future service obligations.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

The project would affect about 61.1 total acres during abandonment activities including 14.5 acres of existing pipeline right-of-way and aboveground facility sites; 5.0 acres of temporary extra workspace; and 41.7 acres for temporary access roads. Following construction, Southern Star would restore construction workspaces to pre-construction land use and the associated right-of-way would revert back to the landowner.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers authorizing an applicant's proposal. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This process is referred to as "scoping." The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the proposed project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- public safety; and
- cumulative impacts.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office (SHPO), and to solicit its views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

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[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called "eLibrary" or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] "We," "us," and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an "intervenor" which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the "Document-less Intervention Guide" under the "e-filing" link on the Commission's Web site. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.*

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the "eLibrary" link. Click on the eLibrary link, click on "General Search" and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* CP16–456). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: June 9, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–14147 Filed 6–20–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14742–000]

Ute Indian Tribe; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On December 12, 2015, the Ute Indian Tribe, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Ute Pumped Storage Project (Ute Project or project) adjacent to the Bureau of Reclamation's Flaming Gorge Reservoir, in Daggett County, Utah. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed pumped storage project would consist of the following: (1) An intake and discharge structure at one of seven locations in Flaming Gorge Reservoir; (2) an underground tailrace between the reservoir intake/outlet structure and the powerhouse; (3) pump-turbine units in an underground powerhouse with generation capacity of between 500 to 1,000 megawatts; (4) a penstock between the powerhouse and the upper reservoir; (5) a dam at one of seven locations forming the upper reservoir; (6) an upper reservoir at one of seven locations with a capacity between 5,000 and 10,000 acre-feet at an elevation between 6,800 and 7,500 feet above mean sea level; (7) a transmission line from the powerhouse to the nearest major transmission interconnection; and (10) appurtenant facilities. The estimated annual generation of the Ute Project would be between 400 and 850 gigawatt-hours.

Applicant Contact: Shaun Chapoose, Chairman, Ute Tribal Business Committee, Ute Indian Tribe, P.O. Box 190, Fort Duchesne, Utah 84026; phone: (435) 722–5141.

FERC Contact: Joseph Hassell; phone: (202) 502–8079.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14742–000.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/ecomment.asp.* Enter the docket number (P–14742) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 15, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–14602 Filed 6–20–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4283–005]

Fred N. Sutter, Jr.; Shamrock Utilities, LLC; Notice of Transfer of Exemption

1. By letter filed May 16, 2016, Fred N. Sutter, Jr. informed the Commission that the exemption from licensing for the Sutter's Mill Project No. 4283, originally issued March 1, 1982[1] has been transferred to Shamrock Utilities, LLC. The project is located on Millseat Creek in Shasta County, California. The transfer of an exemption does not require Commission approval.

2. Shamrock Utilities, LLC is now the exemptee of the Sutter's Mill Project, No. 4283. All correspondence should be forwarded to: Mr. Rocky Ungaro, Shamrock Utilities, LLC, P.O. Box 859, Palo Cedro, CA 96073.

Dated: June 15, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–14597 Filed 6–20–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER06–554–000.

Applicants: Virginia Electric and Power Company.

Description: Informational Filing and Motion for Extension of Time of Virginia Electric and Power Company.

Filed Date: 8/12/15.

Accession Number: 20150812–5182

Comments Due: 5 p.m. ET 7/6/16.

Docket Numbers: ER15–767–002.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Report Filing: 2016–06–15_White Pine 2 Refund Report Supplement to be effective N/A.

Filed Date: 6/15/16.

Accession Number: 20160615–5026.

Comments Due: 5 p.m. ET 7/6/16.

Docket Numbers: ER16–1936–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: City of Gridley Work Performance Agreement to be effective 7/1/2016.

Filed Date: 6/15/16.

Accession Number: 20160615–5099.

Comments Due: 5 p.m. ET 7/6/16.

Docket Numbers: ER16–1937–000.

Applicants: Wisconsin Power and Light Company.

Description: § 205(d) Rate Filing: Normal CFA filing to be effective 9/1/2010.

Filed Date: 6/15/16.

Accession Number: 20160615–5103.

Comments Due: 5 p.m. ET 7/6/16.

Docket Numbers: ER16–1938–000.

Applicants: Wisconsin Power and Light Company.

Description: § 205(d) Rate Filing: Normal PSA filing to be effective 9/1/2010.

Filed Date: 6/15/16.

Accession Number: 20160615–5104.

Comments Due: 5 p.m. ET 7/6/16.

Docket Numbers: ER16–1939–000.

Applicants: 4C Acquisition, LLC.

Description: Baseline eTariff Filing: Baseline Master Tariff Filing—Rate Schedules to be effective 8/15/2016.

Filed Date: 6/15/16.

Accession Number: 20160615–5106.

Comments Due: 5 p.m. ET 7/6/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 15, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–14601 Filed 6–20–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–520–000]

Tennessee Gas Pipeline Company, LLC; Notice of Availability of the Environmental Assessment for the Proposed Triad Expansion Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Triad Expansion Project, proposed by Tennessee Gas Pipeline Company, LLC (Tennessee) in the above-referenced docket. Tennessee requests authorization to construct and operate pipeline facilities, to modify existing aboveground facilities, and add new tie-in facilities in Susquehanna County, Pennsylvania.

The EA assesses the potential environmental effects of the construction and operation of the Triad Expansion Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The proposed Triad Expansion Project includes the following facilities:

- Approximately 7.0 miles of new 36-inch-diameter looping[1] pipeline in Susquehanna County, Pennsylvania;
- A new internal pipeline inspection ("pig") launcher, crossover, and connecting facilities at the beginning of the proposed pipeline loop in Susquehanna County, Pennsylvania; and
- A new "pig" receiver, a new odorant facility, and ancillary piping at the existing Compressor Station 321 in Susquehanna County, Pennsylvania.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding. In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public

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[1] 18 FERC ¶ 62,359 (1982), Order Granting Exemption from Licensing of a Small Hydroelectric Project of 5 Megawatts or Less.

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[1] A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before July 15, 2016.

For your convenience, there are three methods you can use to file your comments to the Commission. In all instances, please reference the project docket number (CP15–520–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You must select the type of filing you are making. If you are filing a comment on a particular project, please select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). [2] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on "General Search," and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP15–520). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: June 15, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–14594 Filed 6–20–16; 8:45 am]

BILLING CODE 6717–01–P

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[2] See the previous discussion on the methods for filing comments.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RC11–6–004]

North American Electric Reliability Corporation; Notice of Staff Review of Compliance Programs

Commission staff coordinated with the staff of the North American Electric Reliability Corporation (NERC) to conduct the annual oversight of the Find, Fix, Track and Report (FFT) program, as outlined in the March 15, 2012 Order,[1] and the Compliance Exception (CE) Program, as proposed by NERC's September 18, 2015 annual Compliance Filing.[2] The Commission supported NERC's plan to coordinate with Commission staff to review the same sample of possible violations, thereby reducing the burden on the Regional Entities of providing evidence for two different samples. Commission staff reviewed a sample of 32 FFT possible violations out of 161 FFT possible violations posted by NERC between October 2014 and September 2015 and a sample of 100 CE instances of noncompliance out of 499 CE instances of noncompliance posted by NERC between May 2014 and October 2015.

Commission staff believes that the FFT and CE programs are meeting expectations with limited exceptions. Sampling for the 2015 program year indicated that the Regional Entities appropriately included the sampled possible violations in the FFT and CE programs and that these 132 possible violations have been adequately remediated. Commission staff's sample analysis indicated a small number of documentation concerns, particularly with regard to the quality of the information contained in the FFT and/or CE postings. For example, Commission staff found that several FFT or CE issues still lacked some of the information requested in NERC's Guidance for Self Reports document and necessary for the posted FFT or CE.[3] This includes information such as start or end dates, factors affecting the risk prior to mitigation (such as potential and actual risk), and actual harm. Commission staff subsequently reviewed the supporting information for these FFTs or CEs, which provided a majority of the missing information. Commission staff ultimately agreed with the final risk determinations for all 132 samples. Commission staff also noted a significant improvement in the clear identification of root cause, which was identified in all samples posted after the feedback calls from the previous year's survey. In addition, Commission staff noted that the FFTs and CEs sampled did not contain any material misrepresentations by the registered entities.

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[1] *North American Electric Reliability Corp.,* 138 FERC ¶ 61,193, at P 73 (2012) (discussing Commission plans to survey a random sample of FFTs submitted each year to gather information on how the FFT program is working).

[2] *North American Electric Reliability Corp.,* Docket No. RC11–6–004, at 1 (Nov. 13, 2015) (delegated letter order) (stating "NERC's intention to combine the evaluation of Compliance Exceptions with the annual sampling of FFTs to further streamline oversight of the FFT and compliance exception programs").

[3] *North American Electric Reliability Corp.,* 138 FERC ¶ 61,193, at P 60 (2012).

Dated: June 15, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–14603 Filed 6–20–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6731–013]

Coneross Power Corporation; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 6731–013.

c. *Date Filed:* February 26, 2016.

d. *Submitted By:* Coneross Power Corporation.

e. *Name of Project:* Coneross Hydroelectric Project.

f. *Location:* On Coneross Creek, in Oconee County, South Carolina. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Beth E. Harris, Enel Green Power North America, Inc., 11 Anderson Street, Piedmont, SC 29673; (864) 846–0042 ext. 100; email—*Beth.Harris@Enel.com.*

i. *FERC Contact:* Adam Peer at (202) 502–8449; or email at *adam.peer@ferc.gov.*

j. Coneross Power Corporation filed its request to use the Traditional Licensing Process on February 26, 2016. Coneross Power Corporation provided public notice of its request on March 1, 2016 and March 9, 2016. In a letter dated June 10, 2016, the Director of the Division of Hydropower Licensing approved Coneross Power Corporation's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402. We are also initiating consultation with the South Carolina State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Coneross Power Corporation as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Coneross Power Corporation filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 6731–013. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 28, 2019.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: June 15, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–14598 Filed 6–20–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC16–120–000.
Applicants: Otter Tail Power Company.
Description: Errata [replacing Exhibit M] to May 17, 2016 Otter Tail Power Company Request For Approvals Pursuant To Section 203 Of The Federal Power Act.
Filed Date: 6/14/16.
Accession Number: 20160614–5165.
Comments Due: 5 p.m. ET 6/24/16.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG16–117–000.
Applicants: Innovative Owner 43, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Innovative Owner 43, LLC.
Filed Date: 6/14/16.
Accession Number: 20160614–5156.
Comments Due: 5 p.m. ET 7/5/16.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER12–1563–002; ER12–1562–002.
Applicants: Cayuga Operating Company, LLC, Somerset Operating Company, LLC.
Description: Notice of Non-Material Change in Status of Cayuga Operating Company, LLC, et al.
Filed Date: 6/15/16.
Accession Number: 20160615–5062.
Comments Due: 5 p.m. ET 7/6/16.

Docket Numbers: ER14–2529–002.
Applicants: Pacific Gas and Electric Company.
Description: Report Filing: TO16 Compliance Electric Refund Report to be effective N/A.
Filed Date: 6/14/16.
Accession Number: 20160614–5155.
Comments Due: 5 p.m. ET 7/5/16.

Docket Numbers: ER16–1923–000.
Applicants: LWP Lessee, LLC.
Description: Baseline eTariff Filing: Filing of LWP Lessee Rate Schedule FERC No. 1 re Reactive Power Compensation to be effective 8/14/2016.
Filed Date: 6/14/16.
Accession Number: 20160614–5145.
Comments Due: 5 p.m. ET 7/5/16.

Docket Numbers: ER16–1924–000.
Applicants: Bison Solar LLC.
Description: Baseline eTariff Filing: Market Based Rate Tariff to be effective 8/1/2016.
Filed Date: 6/14/16.
Accession Number: 20160614–5159.
Comments Due: 5 p.m. ET 7/5/16.

Docket Numbers: ER16–1925–000.
Applicants: Pavant Solar II LLC.
Description: Baseline eTariff Filing: Pavant Solar Tariff to be effective 8/1/2016.
Filed Date: 6/14/16.
Accession Number: 20160614–5164.
Comments Due: 5 p.m. ET 7/5/16.

Docket Numbers: ER16–1926–000.

Applicants: San Isabel Solar LLC.
Description: Baseline eTariff Filing: San Isabel MBR to be effective 8/1/2016.
Filed Date: 6/15/16.
Accession Number: 20160615–5000.
Comments Due: 5 p.m. ET 7/6/16.

Docket Numbers: ER16–1927–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: Service Agreement No. 890 to be effective 6/16/2016.
Filed Date: 6/15/16.
Accession Number: 20160615–5029.
Comments Due: 5 p.m. ET 7/6/16.

Docket Numbers: ER16–1928–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to WMPA SA No. 3250, Queue No. W2–091 to be effective 2/5/2015.
Filed Date: 6/15/16.
Accession Number: 20160615–5049.
Comments Due: 5 p.m. ET 7/6/16.

Docket Numbers: ER16–1929–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2016–06–15_SA 2923 ATC-Quilt Block Wind Farm E&P (J395) to be effective 6/16/2016.
Filed Date: 6/15/16.
Accession Number: 20160615–5050.
Comments Due: 5 p.m. ET 7/6/16.

Docket Numbers: ER16–1930–000.
Applicants: Southern California Edison Company.
Description: Tariff Cancellation: Notices of Cancellation DSA—Summer Solar E2, F2, G2, H2 to be effective 12/27/2015.
Filed Date: 6/15/16.
Accession Number: 20160615–5056.
Comments Due: 5 p.m. ET 7/6/16.

Docket Numbers: ER16–1931–000.
Applicants: Pacific Gas and Electric Company.
Description: Notice of Termination of Small Generator Interconnection Service Agreement No. 326 of Pacific Gas and Electric Company.
Filed Date: 6/15/16.
Accession Number: 20160615–5061.
Comments Due: 5 p.m. ET 7/6/16.

Docket Numbers: ER16–1932–000.
Applicants: Tanner Street Generation, LLC.
Description: § 205(d) Rate Filing: Category 2 Seller Request in NE to be effective 6/16/2016.
Filed Date: 6/15/16.
Accession Number: 20160615–5065.
Comments Due: 5 p.m. ET 7/6/16.

Docket Numbers: ER16–1933–000.
Applicants: Public Service Electric and Gas Company.
Description: Baseline eTariff Filing: PECO PSE&G Amtrak to be effective 6/15/2016.
Filed Date: 6/15/16.
Accession Number: 20160615–5066.
Comments Due: 5 p.m. ET 7/6/16.

Docket Numbers: ER16–1934–000.
Applicants: Drift Marketplace, Inc.
Description: Baseline eTariff Filing: Drift Marketplace, Inc. Market Based Rate Tariff to be effective 6/15/2016.
Filed Date: 6/15/16.
Accession Number: 20160615–5068.
Comments Due: 5 p.m. ET 7/6/16.

Docket Numbers: ER16–1935–000.
Applicants: Union Power Partners, L.P.
Description: Tariff Cancellation: Complete Cancellation of FERC Electric Tariff to be effective 6/16/2016.
Filed Date: 6/15/16.
Accession Number: 20160615–5069.
Comments Due: 5 p.m. ET 7/6/16.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 15, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–14600 Filed 6–20–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13102–003]

Birch Power Company; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original License (Major Project).

b. *Project No.:* 13102–003.

c. *Date filed:* July 2, 2013.

d. *Applicant:* Birch Power Company.

e. *Name of Project:* Demopolis Lock and Dam Hydroelectric Project.

f. *Location:* At the U.S. Army Corps of Engineers' (Corps) Demopolis Lock and Dam, on the Tombigbee River, west of the city of Demopolis in Marengo and Sumter Counties, Alabama. The proposed project would occupy approximately 23 acres of federal land administered by the Corps.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Nicholas E. Josten, GeoSense, 2742 Saint Charles Ave, Idaho Falls, ID 83404, (208) 528–6152.

i. *FERC Contact:* Adam Peer (202) 502–8449, *adam.peer@ferc.gov.*

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–13102–003.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is now ready for environmental analysis.

l. The proposed project would utilize the existing Corps' Demopolis Lock and Dam and Reservoir, and would consist of the following new facilities: (1) A 900-foot-long excavated intake channel (headrace); (2) two 60-foot-long by 32-foot-wide trash racks with 2.5-inch bar spacing; (3) a 201-foot-long by 80-foot-wide powerhouse containing two 24-megawatt (MW) Kaplan turbines, having a total installed capacity of 48 MW; (4) a substation; (5) a forebay oxygen diffuser line system to enhance dissolved oxygen; (6) a 2,000-foot-long excavated tailrace channel; (7) a 1,700-foot-long retaining wall along the north side of tailrace channel; (8) a 4.4-mile-long, 115-kilovolt transmission line; and (9) appurtenant facilities. The average annual generation would be about 213,000 megawatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

o. A license applicant must file no later than 60 days following the date of issuance of this notice: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: June 15, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–14599 Filed 6–20–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9947–89–Region 10]

Reissuance of NPDES General Permit for Discharges From Federal Aquaculture Facilities and Aquaculture Facilities Located in Indian Country Within the Boundaries of Washington State (Permit Number WAG130000)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Director, Office of Water and Watersheds, EPA Region 10, is publishing notice of availability of the final National Pollutant Discharge Elimination System (NPDES) General Permit for Federal Aquaculture Facilities and Aquaculture Facilities Located in Indian Country within the Boundaries of Washington State (General Permit). The General Permit contains effluent limitations, along with administrative reporting and monitoring requirements, as well as standard conditions, prohibitions, and management practices. The Washington Department of Ecology and applicable tribes have provided Section 401 certification for this permit.

DATES: The issuance date of this General Permit is the date of publication of this notice. The General Permit will become effective August 1, 2016.

ADDRESSES: Copies of the General Permit and Response to Comments are available through written requests submitted to EPA, Region 10, 1200 Sixth Avenue, Suite 900, OWW–191, Seattle, WA 98101. Electronic requests may be sent to: *washington.audrey@epa.gov.* For requests by phone, call Audrey Washington at (206) 553–0523. The General Permit, Fact Sheet, Biological Evaluation, and Response to Comments may be found on the Region 10 Web site at *http://yosemite.epa.gov/r10/water.nsf/npdes+permits/general+npdes+permits/.*

FOR FURTHER INFORMATION CONTACT: Audrey Washington, (206) 553–0523.

SUPPLEMENTARY INFORMATION:

Other Legal Requirements

Endangered Species Act [16 U.S.C. 1531 et al.]. Section 7 of the Endangered Species Act (ESA) requires Federal agencies to consult with NOAA Fisheries (NMFS) and the U.S. Fish and Wildlife Service (USFWS) if their actions have the potential to either beneficially or adversely affect any threatened or endangered species. EPA has analyzed the discharges authorized by the General Permit, and their potential to adversely affect any of the threatened or endangered species or their designated critical habitat areas in the vicinity of the discharges. Based on this analysis, EPA has determined that the issuance of this permit is not likely to adversely affect any threatened or endangered species in the vicinity of the discharge. NMFS and USFWS have concurred with this determination.

National Environmental Policy Act (NEPA) [42 U.S.C. 4321 et seq.] and Other Federal Requirements. Regulations at 40 CFR 122.49 list the federal laws that may apply to the issuance of permits, *i.e.,* ESA, National Historic Preservation Act, the Coastal Zone Act Reauthorization Amendments (CZARA), NEPA, and Executive Orders, among others. The NEPA compliance program requires analysis of information regarding potential impacts, development and analysis of options to avoid or minimize impacts, and development and analysis of measures to mitigate adverse impacts. EPA determined that no Environmental Assessments (EAs) or Environmental Impact Statements (EIS's) are required under NEPA. EPA determined that continued coverage of the Chief Joseph Fish Hatchery under the reissued General Permit meets the criteria to be categorically excluded from further NEPA review. EPA also determined that CZARA does not apply.

Essential Fish Habitat (EFH). The Magnuson-Stevens Fishery Management and Conservation Act requires EPA to consult with NOAA–NMFS when a proposed discharge has the potential to adversely affect a designated EFH. The EFH regulations define an adverse effect as "any impact which reduces quality and/or quantity of EFH . . . [and] may include direct (*e.g.* contamination or physical disruption), indirect (*e.g.* loss of prey, reduction in species' fecundity), site-specific or habitat-wide impacts, including individual, cumulative, or synergistic consequences of actions." NMFS may recommend measures for attachment to the federal action to protect EFH; however, such recommendations are advisory, and not prescriptive in nature. EPA has evaluated the General Permit and has made the determination that issuance of the General Permit is not likely to adversely affect EFH. NMFS has concurred with this determination.

Executive Order 12866: The Office of Management and Budget (OMB) exempts this action from the review requirements of Executive Order 12866 pursuant to Section 6 of that order.

Economic Impact [Executive Order 12291]: The EPA has reviewed the effect of Executive Order 12291 on this General Permit and has determined that it is not a major rule pursuant to that Order.

Paperwork Reduction Act [44 U.S.C. 3501 et seq.] The EPA has reviewed the requirements imposed on regulated facilities in the General Permit and finds them consistent with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

Regulatory Flexibility Act [5 U.S.C. 601 et seq.] The Regulatory Flexibility Act (RFA) requires that EPA prepare an initial regulatory flexibility analysis for rules subject to the requirements of the Administrative Procedures Act [APA, 5 U.S.C. 553] that have a significant impact on a substantial number of small entities. However, EPA has concluded that NPDES General Permits are not rulemakings under the APA, and thus not subject to APA rulemaking requirements or the RFA.

Unfunded Mandates Reform Act: Section 201 of the Unfunded Mandates Reform Act (UMRA), Public Law 104–4, generally requires Federal agencies to assess the effects of their regulatory actions (defined to be the same as rules subject to the RFA) on tribal, state, and local governments, and the private sector. However, General NPDES Permits are not rules subject to the requirements of the APA, and are, therefore, not subject to the UMRA.

Appeal of Permit: Any interested person may appeal the General Permit in the Federal Court of Appeals in accordance with section 509(b)(1) of the Clean Water Act, 33 U.S.C. 1369(b)(1). This appeal must be filed within 120 days of the General Permit issuance date. Affected persons may not challenge the conditions of the General Permit in further EPA proceedings (see 40 CFR 124.19). Instead, they may either challenge the General Permit in court or apply for an individual NPDES permit.

Authority: This action is taken under the authority of Section 402 of the Clean Water Act as amended, 42 U.S.C. 1342.

Dated: June 9, 2016.

Daniel D. Opalski,

Director, Office of Water and Watersheds, Region 10.

[FR Doc. 2016–14671 Filed 6–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket ID No. EPA–HQ–ORD–2013–0357; FRL 9947–98–ORD]

Evaluating Urban Resilience to Climate Change: A Multi-Sector Approach

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: EPA is announcing a 30-day public comment period for the draft document titled "Evaluating Urban Resilience to Climate Change: A Multi-Sector Approach" (EPA/600/R–15/312). EPA is also announcing that Versar, Inc., an EPA contractor for external scientific peer review, will select four independent experts from a pool of eight to conduct a letter peer review of the same draft document. The document was prepared by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development (ORD). This document describes an assessment tool that uses quantitative and qualitative indicators to help cities identify areas of resilience and vulnerability to climate change impacts and introduces example case studies from Washington, DC and Worcester, Massachusetts.

EPA intends to forward the public comments that are submitted in accordance with this document to the external peer reviewers for their consideration during the letter peer review. When finalizing the draft document, EPA intends to consider any public comments received in response to this notice. EPA is releasing this draft document for the purposes of public comment and peer review. This draft document is not final as described in EPA's information quality guidelines and it does not represent and should not be construed to represent Agency policy or views. The draft document is available via the internet on EPA's Global Change Research Program Products and Publications Web page at *https://www.epa.gov/risk/global-change-research-program-products-and-publications.*

DATES: The 30-day public comment period begins June 21, 2016, and ends July 21, 2016. Technical comments should be in writing and must be received by EPA by July 21, 2016. The document will be available on or around June 22, 2016.

ADDRESSES: The external peer review draft, "Evaluating Urban Resilience to Climate Change: A Multi-Sector Approach," is available primarily via the internet on the EPA's Global Change Research Program Products and Publications Web page at *https://www.epa.gov/risk/global-change-research-program-products-and-publications.* A limited number of paper copies are available from the Information Management Team, NCEA; telephone: 703–347–8561; facsimile: 703–347–8691. If you are requesting a paper copy, please provide your name, mailing address, and the document title.

Comments may be submitted electronically via *www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the ORD Docket at the EPA Headquarters Docket Center; telephone: 202–566–1752; facsimile: 202–566–9744; or email: *Docket_ORD@epa.gov.*

For technical information, contact Susan Julius, NCEA; telephone: 703–347–8619; facsimile: 703–347–8694; or email: *julius.susan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information About the Document

Climate change impacts are diverse, long-term, and not easily predictable. Adapting to climate change requires making context specific and forward-looking decisions regarding a variety of climate change impacts and vulnerabilities when the future is highly uncertain. EPA scientists and their collaborators created an assessment tool to help cities identify climate change risks in eight different municipal sectors. The report identifies and tests indicators of traits that may enhance or inhibit communities' resilience to climate change, allowing decision-makers to focus planning efforts on those areas that are least resilient to anticipated impacts. The results yielded an approach that provides a way for cities to explore threats to and measures of resilience. It also demonstrates the utility of this systematic and flexible method in providing useful information for future adaptation planning for different types of cities.

II. How To Submit Technical Comments to the Docket at *www.regulations.gov*

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2013–0357, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: Docket_ORD@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center (ORD Docket), Mail Code: 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The ORD Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2013–0357. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked "late," and may only be considered if time permits. It is the EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information through *www.regulations.gov* or email that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA's public docket visit the EPA Docket Center homepage at *http://www2.epa.gov/dockets.*

Docket: Documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the ORD Docket in the EPA Headquarters Docket Center.

Dated: June 9, 2016.

Mary A. Ross,

Deputy Director, National Center for Environmental Assessment.

[FR Doc. 2016–14666 Filed 6–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9947–99–OW]

The National Drinking Water Advisory Council: Request for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for nominations.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations of qualified candidates to be considered for a three-year appointment to the National Drinking Water Advisory Council (NDWAC or Council). The 15-member Council was established by the Safe Drinking Water Act (SDWA) to provide practical and independent advice, consultation and recommendations to the EPA Administrator on the activities, functions, policies and regulations required by the SDWA. This notice solicits nominations to fill one new vacancy from December 2016 through December 2019. To maintain the representation required by statute, a nominee will be selected to represent state and local agencies concerned with water hygiene and public water supply.

DATES: Nominations should be submitted on or before July 31, 2016.

ADDRESSES: Submit nominations to Michelle Schutz, Designated Federal Officer (DFO), The National Drinking Water Advisory Council, U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water, Mail Code 4601–M, 1200 Pennsylvania Avenue NW., Washington, DC 20460. You may also email nominations with the subject line NDWACResume2016 to *schutz.michelle@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Email your questions to Michelle Schutz or call her at (202) 564–7374.

SUPPLEMENTARY INFORMATION:

National Drinking Water Advisory Council: The Council was created by Congress on December 16, 1974, as part of the Safe Drinking Water Act of 1974, Public Law 93–523, 42 U.S.C. 300j–5, and is operated in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The Council consists of 15 members, including the Chairperson, all of whom are appointed by the EPA's Administrator. Five members represent appropriate state and local agencies concerned with water hygiene and public water supply; five members represent private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply—of which two such members shall be associated with small, rural public water systems; and five members represent the general public. The current list of members is available on the EPA Web site at *http://water.epa.gov/drink/ndwac.*

The Council will meet in person once each year and may hold a second meeting during the year either in person or by video/teleconferencing. These meetings generally occur in the spring and fall. Additionally, members may be asked to participate in ad hoc workgroups to develop policy recommendations, advice letters and reports to address specific program issues.

Member Nominations: Any interested person and/or organization may nominate qualified individuals for membership. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, the Agency encourages nominations of women and men of all racial and ethnic groups.

All nominations will be fully considered, but applicants need to be aware that EPA is currently only soliciting for the current vacancy in the category to represent state and local agencies concerned with water hygiene and public water supply, pursuant to the SDWA. Other criteria used to evaluate nominees will include:

- Demonstrated experience with drinking water issues at the national, state or local level;
- Excellent interpersonal, oral and written communication and consensus-building skills;
- Willingness to commit time to the Council and demonstrated ability to work constructively on committees;
- Absence of financial conflicts of interest;
- Absence of appearance of a lack of impartiality; and
- Background and experience that would help members contribute to the diversity of perspectives on the Council, *e.g.*, geographic, economic, social, cultural, educational backgrounds, professional affiliations and other considerations.

Nominations must include a resume, which provides the nominee's background, experience and educational qualifications, as well as a brief statement (one page or less) describing the nominee's interest in serving on the Council and addressing the other criteria previously described. Nominees are encouraged to provide any additional information that they think would be useful for consideration, such as: Availability to participate as a member of the Council; how the nominee's background, skills and experience would contribute to the diversity of the Council; and any concerns the nominee has regarding membership. Nominees should be identified by name, occupation, position, current business address, email and telephone number. Interested candidates may self-nominate. The DFO will acknowledge receipt of nominations.

Persons selected for membership will receive compensation for travel and a nominal daily compensation (if appropriate) while attending meetings. Additionally, the selected candidate will be designated as a Special Government Employee (SGE) and will be required to fill out the "Confidential Financial Disclosure Form for Environmental Protection Agency Special Government Employees" (EPA Form 3110–48). This confidential form provides information to EPA's ethics officials to determine whether there is a conflict between the SGE's public duties and their private interests, including an appearance of a loss of impartiality as defined by federal laws and regulations. The form may be viewed and downloaded through the "Ethics Requirements for Advisors" link on the EPA NDWAC Web site at *https://www.epa.gov/ndwac/membership-national-drinking-water-advisory-council#tab-2.*

Other sources, in addition to this **Federal Register** notice, may also be utilized in the solicitation of nominees. To help EPA in evaluating the effectiveness of its outreach efforts, please tell us how you learned of this opportunity.

Dated: June 15, 2016.

Carlos Osegueda,

Acting Deputy Office Director, Office of Ground Water and Drinking Water.

[FR Doc. 2016–14667 Filed 6–20–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, June 14, 2016 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This Meeting Will Be Closed to the Public.

FEDERAL REGISTER NOTICE OF PREVIOUS ANNOUNCEMENT: 81 FR 37196.

CHANGE IN THE MEETING: This meeting was continued on June 16, 2016.

* * * * *

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley E. Garr,

Deputy Secretary.

[FR Doc. 2016–14736 Filed 6–17–16; 11:15 am]

BILLING CODE 6715–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: *"Hospital Survey on Patient Safety Culture Comparative Database."* In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on April 8, 2016, and allowed 60 days for public comment. AHRQ received no substantive comments. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by July 21, 2016.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by email at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Hospital Survey on Patient Safety Culture Comparative Database

In 1999, the Institute of Medicine called for health care organizations to develop a "culture of safety" such that their workforce and processes focus on improving the reliability and safety of care for patients (IOM, 1999; *To Err is Human: Building a Safer Health System*). To respond to the need for tools to assess patient safety culture in health care, AHRQ developed and pilot tested the Hospital Survey on Patient Safety (SOPS)Culture with OMB approval (OMB NO. 0935–0115; Approved 2/4/2003).

The survey is designed to enable hospitals to assess staff opinions about patient safety issues, medical errors, and error reporting. The survey includes 42 items that measure 12 composites of patient safety culture. AHRQ made the survey publicly available on the AHRQ Web site along with a Survey User's Guide and other toolkit materials in November 2004 (located at *http://www.ahrq.gov/professionals/quality-patient-safety/patientsafetyculture/hospital/index.html*). Since its release, the survey has been voluntarily used by hundreds of hospitals in the U.S.

The Hospital SOPS Comparative Database consists of data from the

AHRQ Hospital Survey on Patient Safety Culture. Hospitals in the U.S. are asked to voluntarily submit data from the survey to AHRQ, through its contractor, Westat. The Hospital SOPS Database (OMB NO. 0935–0162, last approved on September 26, 2013) was developed by AHRQ in 2006 in response to requests from hospitals interested in knowing how their patient safety culture survey results compare to those of other hospitals.

Rationale for the information collection. The Hospital SOPS and the Comparative Database support AHRQ's goals of promoting improvements in the quality and safety of health care in hospital settings. The survey, toolkit materials, and comparative database results are all made publicly available on AHRQ's Web site. Technical assistance is provided by AHRQ through its contractor at no charge to hospitals, to facilitate the use of these materials for hospital patient safety and quality improvement.

Request for information collection approval. AHRQ requests that the Office of Management and Budget (OMB) reapprove, under the Paperwork Reduction Act of 1995, AHRQ's collection of information for the AHRQ Hospital Survey on Patient Safety Culture (Hospital SOPS) Comparative Database; OMB NO. 0935–0162, last approved on September 26, 2013.

This database will:

(1) Allow hospitals to compare their patient safety culture survey results with those of other hospitals,

(2) Provide data to hospitals to facilitate internal assessment and learning in the patient safety improvement process, and

(3) Provide supplemental information to help hospitals identify their strengths and areas with potential for improvement in patient safety culture.

This study is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of health care services and with respect to quality measurement and improvement. 42 U.S.C. 299a(a)(1) and (2).

Method of Collection

To achieve the goal of this project the following activities and data collections will be implemented:

(1) Eligibility and Registration Form—The hospital pointofcontact (POC) completes a number of data submission steps and forms, beginning with the completion of an online eligibility and registration form. The purpose of this form is to determine the eligibility status and initiate the registration process for hospitals seeking to voluntarily submit their Hospital SOPS data to the Hospital SOPS Comparative Database.

(2) Data Use Agreement—The purpose of the data use agreement, completed by the hospital POC, is to state how data submitted by hospitals will be used and provides confidentiality assurances.

(3) Hospital Site Information Form—The purpose of the site information form is to obtain basic information about the characteristics of the hospitals submitting their Hospital SOPS data to the Hospital SOPS Comparative Database (*e.g.* number of providers and staff, ownership, and teaching status). The hospital POC completes the form.

(4) Data Files Submission—The number of submissions to the database is likely to vary each year because hospitals do not administer the survey and submit data every year. Data submission is typically handled by one POC who is either a manager or a survey vendor who contracts with a hospital to collect its data. POCs submit data on behalf of 3 hospitals, on average, because many hospitals are part of a health system that includes many hospitals, or the POC is a vendor that is submitting data for multiple hospitals.

Survey data from the AHRQ Hospital Survey on Patient Safety Culture is used to produce three types of products: (1) A Hospital SOPS Comparative Database Report that is produced periodically and made publicly available on the AHRQ Web site (see *http://www.ahrq.gov/professionals/quality-patient-safety/patientsafetyculture/hospital/hosp-reports.html*); (2) Individual Hospital Survey Feedback Reports which are confidential, customized reports produced for each hospital that submits data to the database (the number of reports produced is based on the number of hospitals submitting each year); and (3) Research data sets of individual-level and hospital-level, de-identified data to enable researchers to conduct analyses.

Hospitals are asked to voluntarily submit their Hospital SOPS survey data to the comparative database. The data are then cleaned and aggregated and used to produce a Comparative Database Report that displays averages, standard deviations, and percentile scores on the survey's 42 items and 12 composites of patient safety culture, as well as displaying these results by hospital characteristics (bed size, teaching status, ownership) and respondent characteristics (hospital work area, staff position, and those with direct interaction with patients). In addition, trend data, showing changes in scores over time, are presented from hospitals that have submitted to the database more than once.

Data submitted by hospitals are used to give each hospital its own customized survey feedback report that presents its results compared to the latest comparative database results. If the hospital submits data in two consecutive database submission years, its survey feedback report also presents trend data, comparing its previous and most recent data.

Hospitals use the Hospital SOPS, Comparative Database Reports and Individual Hospital Survey Feedback Reports for a number of purposes, to:

- Raise staff awareness about patient safety.
- Diagnose and assess the current status of patient safety culture in their hospital.
- Identify strengths and areas for improvement in patient safety culture.
- Examine trends in patient safety culture change over time.
- Evaluate the cultural impact of patient safety initiatives and interventions.
- Facilitate meeting Joint Commission hospital accreditation standards in Leadership that require a regular assessment of hospital patient safety culture.
- Compare patient safety culture survey results with other hospitals in their efforts to improve patient safety and quality.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in the database. An estimated 304 POCs, each representing an average of 3 individual hospitals each, will complete the database submission steps and forms annually. The POCs typically submit data on behalf of 3 hospitals, on average, because many hospitals are part of a multi-hospital system that is submitting data, or the POC is a vendor that is submitting data for multiple hospitals. Completing the registration form will take about 3 minutes. The Hospital Information Form is completed by all POCs for each of their hospitals (304 × 3 = 912). The total annual burden hours are estimated to be 410.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to submit their data. The cost burden is estimated to be $21,801 annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents/ POCs	Number of responses per POC	Hours per response	Total burden hours
Eligibility/Registration Form	304	1	3/60	15
Data Use Agreement	304	1	3/60	15
Hospital Information Form	304	3	5/60	76
Data Files Submission	304	1	1	304
Total	1,216	NA	NA	410

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents/ POCs	Total burden hours	Average hourly wage rate *	Total cost burden
Eligibility/Registration Form	304	15	$53.17	$798
Data Use Agreement	304	15	53.17	798
Hospital Information Form	304	76	53.17	4,041
Data Files Submission	304	304	53.17	16,164
Total	1,216	410	NA	21,801

* Wage rates were calculated using the mean hourly wage based on occupational employment and wage estimates from the Dept. of Labor, Bureau of Labor Statistics' May 2014 National Industry-Specific Occupational Employment and Wage Estimates NAICS 622000—Hospitals, located at *http://www.bls.gov/oes/current/naics3_622000.htm.* Wage rate of $53.17 is based on the mean hourly wages for Medical and Health Services Managers (11–9111).

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Sharon B. Arnold,

Deputy Director.

[FR Doc. 2016–14615 Filed 6–20–16; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: *"AHRQ ACTION III—Measurement for Performance Improvement in Physician Practices."* In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on April 13, 2016 and allowed 60 days for public comment. AHRQ did not receive any substantive comments. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by July 21, 2016.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by email at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

AHRQ ACTION III—Measurement for Performance Improvement in Physician Practices

This two-year project is an important first step to understanding fully measurement for performance improvement in medical groups. This exploratory research is expected to set the stage for informing future research and policy discussions, both of which could ultimately have a more direct impact on providers, payers, and patients. As a critical first step this research breaks new ground in an important area of health care research by looking at the current landscape to understand better how medical groups are using measurement internally to improve performance and what that means to them, and how internal measurement relates to external measurement obligations and identifying where the gaps are.

Project success for this exploratory work will be more relevant given the complete context of the current landscape of performance measurement, gleaned through an environmental scan, expert input, and qualitative data collection. Ultimately, success will be measured by our ability to answer the research questions that are guiding this research project (see below).

The overall goal of AHRQ's Measurement for Performance Improvement in Physician Practices project is to identify the current gaps in our knowledge about how practices are using data, if at all, for performance improvement. AHRQ has developed this project to address the lack of current evidence on internal performance measurement in medical groups, identifying the following research questions:

- What gaps exist in the research literature regarding management for performance improvement in medical groups?
- What factors, both internal and external, drive efforts to use measurement to improve medical group performance?
- How are measures used to support internal management and improvement processes?
- What additional activities support use of internal performance measures?
- How are internal performance measures derived and reported? What specific measures, benchmarks, and comparisons are used?
- How have physicians responded to these measurement processes?
- What are the perceived benefits of internal measurement activities? What types of costs and other burdens are directly associated with internal measurement? How feasible is it to specify actual costs of reporting?
- What implications does evidence on internal measurement for performance improvement have for payers, policy makers, executives in delivery systems, and clinical leaders?

Specific Project Objectives

- Identify specific measures/metrics used internally by medical groups to assess performance and support improvement activities.
- Describe how internal measurement activities/measures are used in medical groups to support improvement in individual, team, or organizational performance including, but not limited to, how these activities are tied to "internal" financial incentives.
- Identify types of costs and other types of burdens (*e.g.* staff resources, IT resources, etc.), directly related to internal measurement and reporting activities. Assess the feasibility of capturing information on costs and burdens of internal and external performance measurement, and, if feasible, collect data on the actual costs and other associated burdens of internal and external performance measurement.
- Based on the findings, identify implications, potential impacts, and future research opportunities for payers, regulators, and medical groups regarding internal measurements for performance improvement.

Efforts to improve performance among health care providers through measurement and reporting have evolved over time and have taken many forms and many names. For example, Triple Aim, Public Reporting, Performance Measurement, Quality Improvement, Pay for Performance are all common concepts today. And, most health care providers, including medical groups, are monitoring their performance using a wide array of quality measures that reflect care processes, clinical outcomes, and patient experiences. Increasing numbers of providers are required to report their performance on quality measures by payers such as the Centers for Medicare and Medicaid Services and external regulatory bodies such as the National Committee for Quality Assurance or the Joint Commission on Accreditation of Healthcare Organizations.

Little is known, however, about how providers make use internally of measures that are required by external bodies for payment or reporting. Nor is it known what other measures providers collect and use to improve performance. This project aims to fill this knowledge gap. In doing so, it may also inform payment and reporting initiatives by providing indications of the degree to which providers view externally mandated measures as valuable for their internal quality assessment and reporting efforts.

As an initial step in understanding the landscape of measurement for performance improvement, this research will look to understand how medical groups define and measure performance improvement.

This work is being conducted by AHRQ through its contractor, Westat, pursuant to AHRQ's statutory authority to conduct and support research on health care and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of healthcare services and with respect to quality measurement and improvement. 42 U.S.C. 299a(a)(1) and (2).

Method of Collection

For this study, AHRQ will conduct field data collection through semi-structured in-depth interviews. The unit of analysis for this work is the medical group. To understand measurement for performance improvement in each medical group, AHRQ will interview up to 5 administrators and frontline clinicians per medical group. Interviews with both administrators and clinicians will be facilitated using the same protocol. As discussed below, given the different levels of involvement and experience with internal performance measurement, interviews will vary in detail and thus length. But, as AHRQ works to uncover the story of each medical group involved in the study, the same guiding protocol will apply. AHRQ will audio-record and professionally transcribe each interview conducted. And, all interviews will be loaded into Dedoose for coding and analysis.

The information collected in the data collection effort will be used for one main purpose:

Identify the current gaps in internal measurement in physician practices. The results from the data collection will give AHRQ a snapshot on the current practices being undertaken for internal performance measurement and inform best next steps to move beyond this exploratory research phase.

The intended target audiences expected to benefit most from the project include the medical groups using this information to improve performance, the health care professionals who work in these medical groups working to improve how they care for patients, and the patients who benefit from improved care. One way this research could benefit these audiences is by informing payment and reporting initiatives by providing indications of the degree to which providers view externally mandated measures as valuable for their internal quality assessment and reporting efforts.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the participants' time to take part in this research. To recruit medical groups to participate, AHRQ will engage groups in a short call to assess interest and obtain a commitment to participate. AHRQ expects the need to reach out to approximately 100 medical groups to obtain a sample of 45 groups that are conducting some type of measurement for internal performance improvement, are interested in taking part, and are able to take part during the data collection window. In-depth, semi-structured qualitative interviews will then be conducted with up to 5 staff members at 45 medical groups using a single protocol. AHRQ will target small (2–9 eligible professionals (EP)), medium (10–24 EPs), and large (25+ EPs) medical groups from across the Unites States. The goal is to recruit approximately 3 administrators and 2 frontline clinicians in each Group, understanding that depending on the size and organization of the medical group staff members may operate in multiple roles.

Based on the pilot study conducted for this project, AHRQ estimates that the recruitment call will average 15 minutes, and that the longest interviews will be 1.5 hours. These longest interviews will be with the highest level administrators working on internal performance measurement at the most complex medical groups. AHRQ believes these will be the largest medical groups that are part of complex systems and payment relationships. These complex organizational relationships will require more time to understand in order to understand the place, role, and operation of internal measurement for performance improvement within the group. For equivalent administrators from medium and small groups, AHRQ estimates the longest interviews will be 1.25 hours. For all other administrators and frontline clinicians, AHRQ estimates the interviews will be 1 hour.

The total annualized burden is estimated to be 295 hours. Again, interviews with both frontline clinicians and all medical group administrators will use the same protocol. The screening call will be an informal conversation in which AHRQ looks to learn if the medical group self-identifies as using measurement for performance improvement and provides consent to take part. AHRQ will answer any questions the medical group has about the study on this call and confirm some basic, publicly available background information about the group that AHRQ has obtained is accurate and up to date. This background information will help put the information learned during the interview in better context. The types of background information AHRQ is looking at includes medical group size, organizational structure, specialty mix, and payment relationships.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Hours per response	Total burden hours
Frontline clinicians	90	1	90
Medical group administrators	235		
Medical group administrators: Administrator with authority to agree to participate in the study	100	0.25	25
Medical group administrators:Initial, highest level administrators	45	1.5	67.5
Medical group administrators: All other administrators	90	1.25	112.5
Total	325	NA	295

Exhibit 2 shows the estimated annualized cost burden associated with the participants' time to take part in this research. The total cost burden is estimated to be $27,270.45.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Interviewee type	Total burden hours	Average hourly wage rate *	Total cost burden
Frontline clinicians	90	[a] $103.54	$9,318.60
Medical group administrators	205	[b] 87.57	17,951.85
Total	295	NA	27,270.45

[a] Based on the average hourly wage for one physician (29–1060; $103.54).

[b] Based on the average hourly wage for one Chief Executive (11–1011; $87.57).

* National Industry-Specific Occupational Employment and Wage Estimates, May 2014, from the Bureau of Labor Statistics (available at *http://www.bls.gov/oes/current/naics4_621100.htm* [for Offices of Physicians, NAICS 622100]).

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Sharon B. Arnold,

Deputy Director.

[FR Doc. 2016–14614 Filed 6–20–16; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10599]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by July 21, 2016.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions:

OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *or* Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Request for a new OMB control number; *Title of Information Collection:* Pre-Claim Review Demonstration For Home Health Services; *Use:* Section 402(a)(1)(J) of the Social Security Amendments of 1967 (42 U.S.C. 1395b–1(a)(1)(J)) authorizes the Secretary to "develop or demonstrate improved methods for the investigation and prosecution of fraud in the provision of care or services under the health programs established by the Social Security Act (the Act)." Pursuant to this authority, the CMS seeks to develop and implement a Medicare demonstration project, which CMS believes will help assist in developing improved procedures for the identification, investigation, and prosecution of Medicare fraud occurring among HHAs providing services to Medicare beneficiaries.

This demonstration would help assure that payments for home health services are appropriate before the claims are paid, thereby preventing fraud, waste, and abuse. As part of this demonstration, CMS proposes performing prior authorization before processing claims for home health services in: Florida, Texas, Illinois, Michigan, and Massachusetts. CMS would establish a prior authorization procedure that is similar to the Prior Authorization of Power Mobility Device (PMD) Demonstration, which was implemented by CMS in 2012. This demonstration would also follow and adopt prior authorization processes that currently exist in other health care programs such as TRICARE, certain state Medicaid programs, and in private insurance.

The information required under this collection is requested by Medicare contractors to determine proper payment or if there is a suspicion of fraud. Medicare contractors will request the information from HHA providers submitting claims for payment from the Medicare program in advance to determine appropriate payment. Please note, due to the title of "Prior Authorization" implying that services will be withheld from the beneficiary until an affirmed decision is achieved, this demonstration has been renamed from the "Home Health Prior Authorization Demonstration" to the "Home Health Pre-Claim Review Demonstration," as home health services are already being provided to the beneficiary when the pre-claim review process begins. *Form Number:* CMS–10599 (OMB Control Number: 0938–NEW); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profits and Not-for-profits); *Number of Respondents:* 908,740; *Number of Responses:* 908,740; *Total Annual Hours:* 454,370. (For questions regarding this collection contact Kristal Vines (410) 786–0119.)

Dated: June 15, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–14569 Filed 6–20–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Notice of Intent To Award a Single Supplement to the National Association of Area Agencies on Aging; The Eldercare Locator

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing supplemental funding for the Eldercare Locator program. The Eldercare Locator program helps older adults and their families and caregivers find their way through the maze of services for older adults by linking to a trustworthy network of national, State, Tribal and community organizations and services through a nationally recognized toll-free number. The Eldercare Locator also provides older adults and caregivers who require more in depth support the opportunity to speak with highly trained eldercare consultants who can better triage the situation. The purpose of this announcement is to award supplemental funds to the National Association of Area Agencies on Aging to support additional specialized staff and enhanced technology to better serve callers, mobile and after hour callers.

Program Name: Eldercare Locator.

Award Amount: $149,049.

Budget Period: 6/1/2016 to 5/31/2017.

Award Type: Cooperative Agreement.

Statutory Authority: The statutory authority for grants under this notice is contained in Title IV of the Older Americans Act (OAA) (42 U.S.C. 3032), as amended by the Older Americans Act Amendments of 2006. Statutory authority specifically for the Eldercare Locator is contained in Title II of the Older Americans Act (202(a)(21).

Catalog of Federal Domestic Assistance (CFDA) Number: 93.048 Discretionary Projects

I. Program Description

The Administration on Aging, an agency of the U.S. Administration for Community Living, has been funding the Eldercare Locator (the Locator) since 1991. The Eldercare Locator links older persons and their caregivers to resources through a nationally recognized toll-free number, 1–800–677–1116 and Web site (*www.eldercare.gov*). The goal is to provide users with the information and resources they need that will help older persons live independently and safely in their homes and communities for as long as possible.

The Eldercare Locator call center utilizes live agents to help callers find their way through the maze of services for older adults by linking to a trustworthy network of national, State, Tribal and community organizations and services. In 2011, an additional feature was added to assist older adults and caregivers who require more in depth support the opportunity to speak with highly trained eldercare consultants who can better triage the situation.

II. Justification for the Supplemental Funding

Over the past year there has been a steady increase in the number of callers to the Eldercare Locator growing from 180,000 calls in 2011 to over 280,000 in just 5 years. The calls are becoming more complex taking longer to resolve leading to much longer waiting times. There is a need to increase the number of staff available to handle the higher demand. In addition, there is a need to enhance the educational tools and resources, such as tip sheets and brochures, available from the Eldercare Locator to better educate older adults and caregivers about eldercare services and resources.

III. Agency Contact

For further information or comments regarding this program expansion supplement, contact Sherri Clark, U.S. Department of Health and Human Services, Administration for Community Living, Office of External Affairs, One Massachusetts Avenue NW., Washington, DC 20001; telephone (202) 795–7327; email *sherri.clark@acl.hhs.gov.*

Dated: June 14, 2016.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2016–14609 Filed 6–20–16; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Reallotment of FY 2016 Funds

AGENCY: Administration on Intellectual and Developmental Disabilities (AIDD), Administration on Disabilities (AoD), Administration for Community Living (ACL), U.S. Department of Health and Human Services (HHS).

ACTION: Notice of reallotment of FY 2016 funds.

SUMMARY: AIDD intends to reallot funds under authority of Section 122(e) and Section 142(a)(1) of the Development Disabilities Assistance and Bill of Rights Act of 2000 (Pub. L. 106–402) which states: "If the Secretary determines that an amount of an allotment to a State for a period (of a fiscal year or longer) will not be required by the State during the period for the purpose for which the allotment was made, the Secretary may reallot the amount." AIDD will be reallotting FY 2016 funds awarded to the State Council on Developmental Disabilities (SCDD) and the Protection & Advocacy (P&A) agency located within the Commonwealth of Puerto Rico. This determination is based on the limited reported expenditures and requests for reimbursement over the last several years from the SCDD and P&A in the Commonwealth of Puerto Rico.

The Puerto Rico SCDD will have up to $1.5 million rescinded and proportionately redistributed to the remaining SCDDs. SCDDs that receive FY 2016 realloted funds will have through the end of FY 2017 to obligate the funds and until the end of FY 2018 to liquidate the funds. The Puerto Rico P&A will have up to $800,000 rescinded and proportionately redistributed to the remaining P&As. P&As that receive the FY 2016 funds will have through the end of FY 2017 to spend the funds.

Realloted funds for both the SCDDs and the P&As must be used according to the terms as outlined in the FY 2016 Notice of Award for each program.

DATES: Funds will be realloted after August 1, 2016 and before September 30, 2016.

ADDRESSES: The reallotment amounts to SCDDs and P&As can be found at *http://www.acl.gov/About_ACL/Allocations/DD-Act.aspx.*

FOR FURTHER INFORMATION CONTACT: Andrew Morris, Office of the Commissioner, Administration on Disabilities, 330 C St. SW., Washington, DC 20201. Telephone (202) 795–7408. Email *andrew.morris@acl.hhs.gov.* Please note the telephone number is not toll free. This document will be made available in alternative formats upon request. Written correspondence can be sent to Administration for Community Living, U.S. Department of Health and Human Services, 330 C St. SW., Washington, DC 20201.

Dated: June 14, 2016.

Aaron Bishop,

Commissioner, Administration on Disabilities, Administration for Community Living.

[FR Doc. 2016–14610 Filed 6–20–16; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Announcing the Intent To Award a Single-Source Supplement for the National Center for Benefits Outreach and Enrollment (NCBOE)

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) announces the intent to award a single-source supplemental to the current cooperative agreement held by the National Council on Aging (NCOA) for the National Center for Benefits Outreach and Enrollment (NCBOE). The purpose of the NCBOE is to provide technical assistance to states, area agencies on aging, and service providers to provide outreach and low-income benefits enrollment assistance, particularly to older individuals with greatest economic need for federal and state programs. The administrative supplement for FY 2016 will be for $6,657,383, bringing the total award for FY 2016 to $11,657,383. This supplement will fully fund the NCOBE project as stated in the reauthorization of NCBOE activities in section 110 of the Protecting Access to Medicare Act of 2014. With this funding NCOA will be expected to continue, expand, and complete the work they are currently undertaking with the NCBOE award without disrupting services. The additional funding will not be used to begin new projects but to expand the capacity of current activities to increase the number of beneficiaries and seniors reach by the NCBOE.

Program Name: The National Center for Benefits Outreach and Enrollment (NCBOE).

Recipient: National Council on Aging (NCOA).

Period of Performance: The award will be issued for the final year of the current project period of September 30, 2014 through September 29, 2017.

Total Award Amount: $11,657,383 in FY 2016.

Award Type: Cooperative Agreement Supplement.

Statutory Authority: The Medicare Improvements for Patients and Providers Act of 2008—Section 119, Public Law (Pub. L.) 110–275 as amended by the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act), reauthorized by the American Taxpayer Relief Act of 2012 (ATRA) and reauthorized by section 110 of the Protecting Access to Medicare Act of 2014.

Basis for Award: The National Council on Aging (NCOA) is currently funded to carry out the NCBOE Project for the period of September 30, 2014 through September 29, 2017. Much work has already been completed and further tasks are currently being accomplished. This supplement will fully fund the NCOBE project as stated in the reauthorization of NCBOE activities in section 110 of the Protecting Access to Medicare Act of 2014.

Since 2001, the NCOA has been a national leader in improving benefits access to vulnerable older adults. They have a strong history of working with community based organizations to develop and replicate outreach and enrollment solutions, while maintaining and enhancing technology to make it easier and more efficient to find benefits. The NCOA through NCBOE accomplishes its mission by developing and sharing tools, resources, best practices, and strategies for benefits outreach and enrollment via its online clearinghouse, electronic and print publications, webinars, and training and technical assistance.

In addition, the NCOA has the BenefitsCheckUp which is, by far, the nation's most comprehensive and widely-used web-based service that screens older and disabled adults with limited incomes and resources and informs them about public and private benefits for which they are very likely to be eligible. Since the BenefitsCheckUp was launched in 2001, nearly 4 million individuals have been assisted to identify over $14.3 billion in potential annual benefits. In addition to a focus on Low-Income Subsidy and Medicare Savings Programs, the BenefitsCheckUp also includes more than 2,300 benefits programs from all 50 states and DC, including the recent addition of Medicaid expansion programs as part of the Affordable Care Act; over 50,000 local offices for people to apply for benefits; more than 1,500 application forms in every language in which they are available; and user-friendly mapping tools that allow streamlined access to program fact sheets and application forms based upon a person's locality.

FOR FURTHER INFORMATION CONTACT: For further information or comments regarding this program supplement, contact Rebecca Kinney, U.S. Department of Health and Human Services, Administration for Community Living, Center for Integrated Programs, Office of Healthcare Information and Counseling; telephone (202) 795–7375; email *Rebecca.Kinney@acl.hhs.gov.*

Dated: June 14, 2016.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2016–14611 Filed 6–20–16; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living/Administration on Aging

Agency Information Collection Activities; Proposed Collection; Comment Request; Request for New Information Collection for a Program Instruction on Guidance for the Development and Submission of State Plans on Aging, State Plan Amendments and the Intrastate Funding Formula

AGENCY: Administration for Community Living, U.S. Administration on Aging, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL)/U.S. Administration on Aging (AoA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the template that will be used to prepare the information collection requirements contained in the Program Instruction on Guidance for the Development and Submission of State Plans on Aging, State Plan Amendments and the Intrastate Funding Formula.

DATES: Submit written or electronic comments on the collection of information by August 22, 2016.

ADDRESSES: Submit electronic comments on the collection of information to: *Greg.Link@acl.hhs.gov.* Submit written comments on the collection of information to Greg Link, Administration for Community Living, Washington, DC 20201, or by fax to (202) 205–0405.

FOR FURTHER INFORMATION CONTACT: Greg Link at (202) 795–7386 or *Greg.Link@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency request or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension, or update, of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing notice of the proposed collection of information set forth in this document. With respect to the following collection of information, ACL invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility; (2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

To be eligible to receive a formula grant under Section 307 (a) of the Older Americans Act (OAA) of 1965, as amended, each State Unit on Aging (SUA) is required to develop a State Plan on Aging that conforms to requirements and priorities outlined by the Assistant Secretary for Aging. Such plans are required, by statute, to be completed by each state and territory every two, three or four years. States with current two- or three-year plans may request an extension, or may amend their current plans if needed; however, at the end of a four-year plan, states must develop a new plan. There is no statutory authority to extend a plan beyond a four-year period.

State plans must address key objectives and focus areas as articulated by the Assistant Secretary for Aging. Objectives and focus areas may change periodically in accordance with the evolution of policies and practices pertaining to the provision of home and community-based supportive services to older adults and their family caregivers. Additionally, state plans must include specific assurances that the state will carry out certain activities in accordance with the OAA. Finally, states are required to develop (or revise) and submit an Intrastate Funding Formula (IFF), detailing how Federal funds made available under the OAA will be disbursed throughout the state. The information submitted to ACL/AoA via the state plan is used for Federal oversight of Title III and VII programs, ensuring that OAA funds are serving as a base for a broader system of long-term services and supports for older adults in the state and that funds are being targeted in accordance with the requirements of the Act.

With respect to targeting, LGBT advocates are urging ACL to require states, in their state plans, to provide assurances that they will assess all groups that may be eligible for designation as a "greatest social need" population and expressly include LGBT older adults as one of those groups whose needs must be assessed by the State Unit on Aging. Additionally, the recently reauthorized OAA directs the Assistant Secretary for Aging to issue guidance for conducting outreach to, and serving, Holocaust survivors. In this regard, ACL wants to know whether the targeting guidance as articulated on pages 5–6 of the template is feasible and likely to ensure maximum inclusion of all populations of seniors, including older American Indians, LGBT seniors, Holocaust survivors living in the U.S., and other isolated groups of older adults. To that end, comments are specifically requested on the extent to which the direction provided is sufficient for states to fully assess the existence of, and develop plans for serving, these individuals and their families. If commenters believe the proposed direction is insufficient, this solicitation requests comments containing the specific guidance desired as well as the practical means and data available to implement said guidance, direction and requirements for states.

When completed annually by ACL/AoA staff, the template presented here for comment will yield a Program Instruction containing the necessary information states need to develop and submit their state plans on aging. ACL/AoA estimates the burden of this data collection as follows: approximately one third (1/3) of the 56 State Units on Aging (or approximately 18 states per year) submit a new state plan in a given year. Estimates as to the amount of time it takes to prepare and submit a state plan vary greatly. Recent feedback from states indicates that, on average, it takes a state approximately 750 hours to prepare and submit a state plan on aging. The proposed Program Instruction template may be found on the ACL Web site for review at: *http://www.aoa.acl.gov/AoA_Programs/OAA/Aging_Network/pi/PI-Template.aspx.*

Dated: June 14, 2016.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2016–14612 Filed 6–20–16; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0297]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Prevention of Salmonella Enteritidis in Shell Eggs During Production; Recordkeeping and Registration Provisions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 21, 2016.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0660. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Prevention of *Salmonella* Enteritidis in Shell Eggs During Production—Recordkeeping and Registration Provisions—21 CFR 118.10 and 118.11; OMB Control Number 0910–0660—Extension

Shell eggs contaminated with *Salmonella* Enteritidis (SE) are responsible for more than 140,000 illnesses per year. The Public Health Service Act (PHS Act) authorizes the Secretary to make and enforce such regulations as "are necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States . . . or from one State . . . into any other State" (section 361(a) of the PHS Act). This authority has been delegated to the Commissioner of Food and Drugs. Under section 402(a)(4) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 342(a)(4)), a food is adulterated if it is prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth or rendered injurious to health. Under section 701(a) of the FD&C Act (21 U.S.C. 371(a)), FDA is authorized to issue regulations for the efficient enforcement of the FD&C Act.

Under part 118 (21 CFR part 118), shell egg producers are required to implement measures to prevent SE from contaminating eggs on the farm and from further growth during storage and transportation. Shell egg producers also are required to maintain records concerning their compliance with part 118 and to register with FDA. As described in more detail with regard to each information collection provision of part 118, each farm site with 3,000 or more egg laying hens that sells raw shell eggs to the table egg market, other than directly to the consumer, must refrigerate, register, and keep certain records. Farms that do not send all of their eggs to treatment are also required to have an SE prevention plan and to test for SE.

Section 118.10 of FDA's regulations requires recordkeeping for all measures the farm takes to prevent SE in its flocks. Since many existing farms participate in voluntary egg quality assurance programs, those respondents may not have to collect any additional information. Records are maintained on file at each farm site and examined there periodically by FDA inspectors.

Section 118.10 also requires each farm site with 3,000 or more egg laying hens that sells raw shell eggs to the table egg market, other than directly to the consumer, and does not have all of the shell eggs treated, to design and implement an SE prevention plan. Section 118.10 requires recordkeeping for each of the provisions included in the plan and for plan review and modifications if corrective actions are taken.

Finally, § 118.11 of FDA's regulations requires that each farm covered by § 118.1(a) register with FDA using Form FDA 3733. The term "Form FDA 3733" refers to both the paper version of the form and the electronic system known as the Shell Egg Producer Registration Module, which is available at *http://www.access.fda.gov.* We strongly encourage electronic registration because it is faster and more convenient. The system can accept electronic registrations 24 hours a day, 7 days a week. A registering shell egg producer receives confirmation of electronic registration instantaneously once all the required fields on the registration screen are completed. However, paper registrations will also be accepted. Form FDA 3733 is available for download for registration by mail or CD–ROM.

Recordkeeping and registration are necessary for the success of the SE prevention measures. Written SE prevention plans and records of actions taken due to each provision are essential for farms to implement SE prevention plans effectively. Further, they are essential for us to be able to determine compliance. Information provided under these regulations helps us to notify quickly the facilities that might be affected by a deliberate or accidental contamination of the food supply. In addition, data collected through registration is used to support our enforcement activities.

Description of Respondents: Respondents to this information collection include farm sites with 3,000 or more egg laying hens that sell raw eggs to the table egg market, other than directly to the consumer.

In the **Federal Register** of January 28, 2016 (81 FR 4923), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received two comments in response, both of which supported the collection of information by FDA to ensure that farms are in compliance with the FD&C Act and regulations, and that adequate control measures for prevention of SE are being implemented.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Description and 21 CFR section	Number of recordkeepers [2]	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Refrigeration Records, § 118.10(a)(3)(iv)	2,600	52	135,200	.5 (30 minutes)	67,600
Testing, Diversion, and Treatment Records, § 118.10(a)(3)(v) through (viii) (positive) [3].	343	52	17,836	.5 (30 minutes)	8,918
Egg Testing, § 118.10(a)(3)(vii)	331	7	2,317	8.3	19,231
Environmental Testing, § 118.10(a)(3)(v) [3]	6,308	23	145,084	.25 (15 minutes)	36,271
Testing, Diversion, and Treatment Records, § 118.10(a)(3)(v) through (viii) (negative) [3].	5,965	1	5,965	.5 (30 minutes)	2,983
Prevention Plan Review and Modifications, § 118.10(a)(4).	331	1	331	10	3,310
Chick and Pullet Procurement Records, § 118.10(a)(2).	4,731	1	4,731	.5 (30 minutes)	2,366
Rodent and Other Pest Control, § 118.10(a)(3)(ii), and Biosecurity Records, § 118.10(a)(3)(i).	9,462	52	492,024	.5 (30 minutes)	246,012
Prevention Plan Design, § 118.10(a)(1)	300	1	300	20	6,000
Cleaning and Disinfection Records, § 118.10(a)(3)(iii).	331	1	331	.5 (30 minutes)	166
Total hours					392,857

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Some records are kept on a by-farm basis and others are kept on a by-house basis.
[3] Calculations include requirements for pullet and layer houses.

We are basing our estimates for the recordkeeping burden and the reporting burden on our experience with similar recordkeeping activities and the number of registrations and cancellations received in the past 3 years.

The number of recordkeepers estimated in column 2 of table 1 is drawn from estimates of the total number of layer and pullet houses affected by part 118. We assume that those farms that are operating according to recognized industry or State quality assurance plans are already largely in compliance with the plan design and recordkeeping provisions discussed in this section, and therefore are not experiencing additional costs to comply with recordkeeping provisions. We found that 59 percent of farms with more than 50,000 layers are members of State or industry quality assurance plans. Fewer than 8 percent of farms with fewer than 50,000 layers are members of quality assurance plans. Thus, we estimate the number of layer farms incurring a new recordkeeping burden because of part 118 to be 2,600, and the number of houses affected to be 4,731.

Prevention plan design (§ 118.10(a)(1)) records are kept on a per farm basis, so we assume that new prevention plan design is only undertaken by new entrants to the industry. Refrigeration records (§ 118.10(a)(3)(iv)) are also kept on a per farm basis so the estimated number of recordkeepers for this provision is 2,600.

Records of chick and pullet procurement (§ 118.10(a)(2)), rodent and other pest control (§ 118.10(a)(3)(ii)), and biosecurity (§ 118.10(a)(3)(i)) are kept on a per house basis, so the estimated number of recordkeepers for these provisions is 4,731.

Records of cleaning and disinfection (§ 118.10(a)(3)(iii)) are also kept on a per house basis, but only need to be kept in the event that a layer house tests environmentally positive for SE. Prevention plan review and modifications (§ 118.10(a)(4)) also need to be performed every time a house tests positive, which we estimate that 7 percent tests positive. Therefore, the number of recordkeepers for these provisions is calculated to be 331 (4,731 houses × 0.070) annually.

Records of testing, diversion, and treatment (§ 118.10(a)(3)(v) through (viii)) are kept on a per house basis and include records on flocks from pullet houses. We estimate that there are one-third as many pullet houses as there are layer houses. Therefore the total number of recordkeepers for these provisions is 6,308 (4,731 + (4,731/3)). The number of annual records kept depends on whether or not houses test positive for SE. Annually, 343 layer and pullet houses ((4,731 layer houses × 0.070) + (4731/3 pullet houses) × 0.0075)) are expected to test positive and 5,965 are expected to test negative ((4,731 layer houses × 0.930) + (4731/3 pullet houses) × 0.9925)).

We assume that refrigeration records are kept on a weekly basis on a per farm basis under § 118.10(a)(3)(iv)). We estimate that 2,600 recordkeepers maintain 52 records each for a total of 135,200 records and that it takes approximately 0.5 hour per recordkeeping. Thus, the total annual burden for refrigeration records is calculated to be 67,600 hours (135,200 × 0.5 hour).

We assume that records of testing, diversion, and treatment under § 118.10(a)(3)(v) through (viii) are kept weekly in the event a layer house tests environmentally positive for SE. We estimate that 343 layer and pullet houses test positive and thus 343 recordkeepers maintain 52 records each for a total of 17,836 records and that it takes approximately 0.5 hour per recordkeeping. Thus, the total annual burden for testing, diversion, and treatment records in the event of a positive test result is calculated to be 8,918 hours (17,836 × 0.5 hour).

Given a positive environmental test for SE, we estimate the weighted average number of egg tests per house under § 118.10(a)(3)(vii)) to be 7. We estimate that 331 recordkeepers maintain 7 records each for a total of 2,317 records and that it takes approximately 8.3 hours per recordkeeping. Thus, the total annual burden for egg testing is calculated to be 19,231 hours (2,317 × 8.3 hours).

We estimate that all 1,577 pullet and 4,731 layer houses not currently testing (6,308 recordkeepers) incur the burden of a single environmental test annually under § 118.10(a)(3)(v)). The number of samples taken during the test depends on whether a farm employs the row based method (an average of 12 samples per house) or the random sampling method (32 samples per house). We estimate that roughly 50 percent of the houses affected employ a row based method and 50 percent employs a random sampling method, implying an average of 23 samples per house. Thus, we estimate that 6,308 recordkeepers take 23 samples each for a total of 145,084 samples. The time burden of sampling is estimated on a per swab sample basis. We estimate that it takes approximately 15 minutes to collect and pack each sample. Thus, the total annual burden for environmental testing is calculated to be 36,271 hours (145,084 × 0.25 hour).

We estimate that records of testing, diversion, and treatment under § 118.10(a)(3)(v) through (viii) are kept annually in the event a layer house tests environmentally negative for SE. We estimate that 5,965 layer and pullet houses test negative and thus 5,965 recordkeepers maintain 1 record of that testing that takes approximately 0.5 hour per record. Thus, the total annual burden for testing, diversion, and treatment records in the event of a negative test result is calculated to be 2,983 hours (5,965 × 0.5 hour).

Prevention plan review and modifications under § 118.10(a)(4)) need to be performed every time a house tests positive. We estimate that 331 layer houses test positive requiring plan review and modifications and that it takes 10 hours to complete this work. Thus, the total annual burden for prevention plan review and modifications in the event of a positive test result is calculated to be 3,310 hours (331 × 10 hours).

We estimate that chick and pullet procurement records under § 118.10(a)(2) is kept roughly once annually per layer house basis. We estimate that 4,731 layer houses maintain 1 record each and that it takes approximately 0.5 hour per recordkeeping. Thus, the total annual burden for chick and pullet procurement recordkeeping is calculated to be 2,366 hours (4,731 × 0.5 hour).

We estimate that rodent and other pest control records under § 118.10(a)(3)(ii)) and biosecurity records under § 118.10(a)(3)(i) are kept weekly on a per layer house basis. We assume that 4,731 layer houses maintain a weekly record under each provision. Thus, we estimate 9,462 recordkeepers maintain 52 records each for a total of 492,024 records. We estimate a recordkeeping burden of 0.5 hours per record for a total of 246,012 burden hours (492,024 × 0.5 hour).

New prevention plan design required by § 118.10(a)(1) is only undertaken by new farms and records are kept on a per farm basis. We estimate that there are 300 new farm registrations annually and we assume that this reflects 300 new farms requiring prevention plan design. This is an increase from our previous estimate based on new registrations received. We estimate that it takes 20 hours to complete this work. Thus, the total annual burden for prevention plan design is calculated to be 6,000 hours (300 × 20 hours).

Cleaning and disinfection recordkeeping under § 118.10(a)(3)(iii) needs to be performed every time a house tests positive. We estimate that 331 layer houses test positive requiring 1 record each and that it takes approximately 0.5 hour per recordkeeping. Thus, the total annual burden for cleaning and disinfection recordkeeping in the event of a positive test result is calculated to be 166 hours (331 × 0.5 hour).

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN[1]

Description and 21 CFR section	FDA form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Registrations or Updates, § 118.11 ...	Form FDA 3733[2]	300	1	300	2.3	690
Cancellations, § 118.11	Form FDA 3733 ...	30	1	30	1	30
Total	....	....	....	....	....	720

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] The term "Form FDA 3733" refers to both the paper version of the form and the electronic system known as the Shell Egg Producer Registration Module, which is available at *http://www.access.fda.gov* per § 118.11(b)(1).

This estimate is based on the average number of new shell egg producer registrations and cancellations received in the past 3 years under § 118.11. We estimate that we will receive an average of 300 registrations or updates per year over the next 3 years. Based on the number of cancellations previously received, we estimate that we will receive approximately 30 cancellations per year over the next 3 years.

We estimate that it takes the average farm 2.3 hours to register, taking into account that some respondents completing the registration may not have readily available Internet access. Thus, the total annual burden for new shell egg producer registrations or updates is calculated to be 690 hours (300 × 2.3 hours).

We estimate cancelling a registration, on average, requires a burden of approximately 1 hour, taking into account that some respondents may not have readily available Internet access. Thus, the total annual burden for cancelling shell egg producer registrations is calculated to be 30 hours (30 cancellations × 1 hour).

Dated: June 15, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–14584 Filed 6–20–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–1593]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Medical Device Accessories

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Fax written comments on the collection of information by July 21, 2016.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–NEW and title "Medical Device Accessories." Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Medical Device Accessories—OMB Control Number 0910–NEW

The draft guidance encourages manufacturers and other parties to utilize the process defined in section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to request risk- and regulatory control-based classifications of new types of accessories. This process provides a pathway to class I or class II classification for accessory devices for which general controls, or general and special controls, provide a reasonable assurance of safety and effectiveness, but for which there is no legally marketed predicate device.

In accordance with section 513(f)(2) of the FD&C Act, manufacturers and other parties may submit a de novo requesting FDA to make a classification determination for the accessory device according to the criteria in section 513(a)(1) of the FD&C Act. The de novo must include a description of the device and detailed information and reasons for any recommended classification (see section 513(f)(2)(A)(v) of the FD&C Act).

In the **Federal Register** of January 20, 2015 (80 FR 2710), FDA published a 60-day notice requesting public comment on the proposed collection of information. We received a total of 12 comments on the guidance. Of these the following were related to the information collection:

Two comments raised concerns regarding the possible difficulties for manufacturers to submit a de novo for new accessories and for risk- and regulatory control-based classification of accessories that were approved under the premarket approval application (PMA) for the parent medical devices. One comment questioned whether FDA considered the possible "practical and economic impact" of the proposed definition of "accessories" that may result in manufacturers being obligated to list some components as accessories for FDA's registration and listing process. The second comment anticipates that "few companies are likely to pursue this route given the associated costs and minimal advantage in time to market." Neither comment specifically discusses the potential PRA burden hours of voluntarily submitting a de novo application; however, it may be inferred that this could impact their resources under the PRA for submitting a de novo.

Also, FDA is not proposing to limit or remove any mechanism that currently exists for manufacturers to obtain marketing authorization for accessories. De novos are typically less burdensome than PMAs for the purpose of classifying a new accessory. Furthermore, if a manufacturer wishes for an accessory to remain in the same regulatory class as the parent device, that manufacturer may continue to submit the accessory for clearance or approval under the submission type applicable to the parent device.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Accessory classification de novo request	8	1	8	180	1,440

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Respondents are medical device manufacturers seeking to market device accessories. Of the approximately 41 de novo applications received per year, only 2 have been associated with accessories. With heightened awareness of the availability of the de novo pathway for accessories, we expect to receive four to six additional accessories applications per year. Therefore, we estimate that we will receive approximately eight accessory classification de novo requests per year. Based on estimates by FDA administrative and technical staff who are familiar with the proposed submission process for accessory classification requests and on our burden estimate for a similar information collection request (see "De Novo Classification Process Evaluation of Automatic Class III Designation; Draft Guidance for Industry and Food and Drug Administration Staff; Availability," 79 FR 47651 at 47653, August 14, 2014), we estimate that the submission process for each accessory classification request will take approximately 180 hours.

The draft guidance also refers to previously approved collections of information found in FDA regulations. The collections of information in 21 CFR parts 801 and 809 have been approved under OMB control number 0910–0485; the collections of information in 21 CFR part 807, subpart E have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814 have been approved under OMB control number 0910–0231; and the collections of information in 21 CFR part 860, subpart C, have been approved under OMB control number 0910–0138.

Dated: June 15, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–14562 Filed 6–20–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–E–2335]

Determination of Regulatory Review Period for Purposes of Patent Extension; XOFIGO

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for XOFIGO and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (in the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by August 22, 2016. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by December 19, 2016. See "Petitions" in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2014–E–2335 for "Determination of Regulatory Review Period for Purposes of Patent Extension; XOFIGO." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS

CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov*. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product XOFIGO (radium 223 dichloride). XOFIGO is indicated for treatment of patients with castration-resistant prostate cancer, symptomatic bone metastases and no known visceral metastatic disease. Subsequent to this approval, the USPTO received a patent term restoration application for XOFIGO (U.S. Patent No. 6,635,234) from Algeta ASA, and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated March 19, 2015, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of XOFIGO represented the first permitted commercial marketing or use of the product. Thereafter, the USPTO requested that FDA determine the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for XOFIGO is 1,945 days. Of this time, 1,792 days occurred during the testing phase of the regulatory review period, while 153 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* January 19, 2008. Algeta ASA claims that February 21, 2008, is the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was January 19, 2008, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* December 14, 2012. FDA has verified the applicant's claim that the new drug application (NDA) for XOFIGO (NDA 203971) was initially submitted on December 14, 2012.

3. *The date the application was approved:* May 15, 2013. FDA has verified the applicant's claim that NDA 203971 was approved on May 15, 2013.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,032 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and ask for a redetermination (see **DATES**). Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must be timely (see **DATES**) and contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *http://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: June 15, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–14551 Filed 6–20–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–1376]

Leveraging Existing Clinical Data for Extrapolation to Pediatric Uses of Medical Devices; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the final guidance entitled "Leveraging Existing

Clinical Data for Extrapolation to Pediatric Uses of Medical Devices; Guidance for Industry and Food and Drug Administration Staff." This guidance explains the circumstances in which it may be appropriate to extrapolate existing medical device data to support pediatric device indications in premarket approval applications (PMAs), humanitarian device exemptions (HDEs) and de novo requests. This guidance also describes FDA's approach for determining whether extrapolation may be appropriate and the factors that should be considered within a statistical model for extrapolation. Extrapolation may be appropriate when there are few differences in safety or effectiveness of the proposed device when used in adult as compared to the intended pediatric populations and the adult data are of high quality for borrowing.

DATES: Submit either electronic or written comments on this guidance at any time. General comments on Agency guidance documents are welcome at any time.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2015–D–1376 for "Leveraging Existing Clinical Data for Extrapolation to Pediatric Uses of Medical Devices; Guidance for Industry and Food and Drug Administration Staff." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

An electronic copy of the guidance document is available for download from the Internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled "Leveraging Existing Clinical Data for Extrapolation to Pediatric Uses of Medical Devices; Guidance for Industry and Food and Drug Administration Staff" to the Office of the Center Director, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach, and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Jacqueline Francis, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G426, Silver Spring, MD 20993–0002, 301–796–6405; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

The objectives of this final guidance are: (1) To increase the availability of safe and effective pediatric devices by providing a roadmap for leveraging relevant existing clinical data for use in demonstrating a reasonable assurance of safety and effectiveness in PMAs and de novo requests, as well as for use in supporting approvals of HDEs; (2) to explain the circumstances in which it may be appropriate to leverage existing clinical data to support pediatric device indications and labeling; (3) to outline the approach FDA uses to determine whether extrapolation is appropriate, and, to what extent the data can be leveraged; and (4) to describe statistical methodology that can be used to leverage the data in a way that increases precision for pediatric inferences. This approach will potentially streamline the process for establishing a pediatric intended use claim, and enhance and encourage pediatric device development programs.

This guidance does not change the regulatory threshold for valid scientific evidence. Instead, the document seeks to provide clarity and predictability for device sponsors and to ensure consistency within FDA regarding the specific criteria that should be considered when deciding whether leveraging existing clinical data to support pediatric claims is appropriate, and if so, to what extent. When considering extrapolation, sponsors are encouraged to engage FDA early in product development planning.

For the purposes of this document, "extrapolation" refers to the leveraging process whereby an indication for use of a device in a new pediatric patient population can be supported by existing clinical data from a studied patient population. That is, when existing data are relevant to a pediatric indication and determined to be valid scientific evidence, it may be scientifically appropriate to attempt to extrapolate such data to a pediatric use in support of demonstrating a reasonable assurance of effectiveness or probable benefit and, occasionally, safety.

FDA published in the **Federal Register** of May 6, 2015 (80 FR 26061), the document entitled "Leveraging Existing Clinical Data for Extrapolation to Pediatric Uses of Medical Devices; Guidance for Industry and Food and Drug Administration Staff" and the comment period closed on August 4, 2015. FDA has considered all of the comments received in finalizing this guidance. The comments from the docket sought further clarification of the scope of the document, the extent of extrapolation that may be feasible across various pediatric subpopulations, and the concept of "borrowing strength" from existing adult data. Accordingly, this guidance document has been updated to include de novo requests within the scope and to provide additional explanation on the concepts of extrapolation of data across pediatric subpopulations and "borrowing strength."

This guidance should be used in conjunction with other device-specific guidances to help ensure that medical devices intended for use in pediatric population provide reasonable assurance of safety and effectiveness.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on the extrapolation of data for pediatric uses of medical devices. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm*. Guidance documents are also available at *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm* or *http://www.regulations.gov*. Persons unable to download an electronic copy of "Leveraging Existing Clinical Data for Extrapolation to Pediatric Uses of Medical Devices; Guidance for Industry and Food and Drug Administration Staff" may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 1827 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR parts 801 and 809 have been approved under OMB control number 0910–0485 (medical device labeling); the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078 (investigational device exemptions); the collections of information in 21 CFR part 814 have been approved under OMB control number 0910–0231 (subparts A through E, premarket approval).

V. References

The following references are on display in the Division of Dockets Management (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *http://www.regulations.gov*. FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. FDA guidance entitled "Premarket Assessment of Pediatric Medical Devices," March 24, 2014, available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm089740.htm*.

Dated: June 16, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–14640 Filed 6–20–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0977]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco To Protect Children and Adolescents

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 21, 2016.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0312. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco To Protect Children and Adolescents OMB Control Number 0910–0312—Extension

This is a request for an extension of OMB approval for the information collection requirements contained in FDA's regulations for cigarettes and smokeless tobacco containing nicotine. The regulations that are codified at 21 CFR part 1140 are authorized by section 102 of the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111–31). Section 102 of the Tobacco Control Act required FDA to publish a final rule regarding cigarettes and smokeless tobacco identical in its provisions to the regulation issued by FDA in 1996 (61 FR 44396, August 28, 1996), with certain specified exceptions including that subpart C (which included 21 CFR 897.24) and 897.32(c) be removed from the reissued rule (section 102(a)(2)(B)). The reissued final rule was published in the **Federal Register** of March 19, 2010 (75 FR 13225).

This collection includes reporting information requirements for § 1140.30 which directs persons to notify FDA if they intend to use a form of advertising that is not addressed in the regulations. The requirements are as follows:

§ 1140.30	Reporting	Directs persons to notify FDA if they intend to use a form of advertising that is not originally described in the March 19, 2010, final rule.

In the **Federal Register** of January 12, 2016 (81 FR 1428), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
1140.30—Scope of Permissible Forms of Labeling and Advertising	300	1	300	1	300

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The burden hour estimates for this collection of information were based on industry-prepared data and information regarding cigarette and smokeless tobacco product advertising expenditures.

Section 1140.30 requires manufacturers, distributors, and retailers: (1) To observe certain format and content requirements for labeling and advertising and (2) to notify FDA if they intend to use an advertising medium that is not listed in the regulations. The concept of permitted advertising in § 1140.30 is sufficiently broad to encompass most forms of advertising. FDA estimates that approximately 300 respondents will submit an annual notice of alternative advertising, and the Agency has estimated it should take 1 hour to provide such notice. Therefore, FDA estimates that the total time required for this collection of information is 300 hours.

Dated: June 16, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–14628 Filed 6–20–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR must be received no later than August 22, 2016.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N–39, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Children's Hospitals Graduate Medical Education Payment Program Application and Full-Time Equivalent Resident Assessment Forms OMB No. 0915–0247 Revision.

Abstract: The Children's Hospitals Graduate Medical Education (CHGME) Payment Program was enacted by Public Law 106–129, and reauthorized by the CHGME Support Reauthorization Act of 2013 (Pub. L. 113–98) to provide Federal support for graduate medical education (GME) to freestanding children's hospitals. The legislation indicates that eligible children's hospitals will receive payments for both direct and indirect medical education. The CHGME Payment Program application and full-time equivalent (FTE) resident assessment forms received OMB clearance on June 30, 2014.

The CHGME Support Reauthorization Act of 2013 included a provision to allow certain newly qualified children's hospitals to apply for CHGME Payment Program funding. The CHGME Payment Program application forms have been revised to accommodate the new statute. In addition, a payment question included in the CHGME Payment Program application forms has been removed, since the participating children's hospitals are now required to electronically communicate their financial information to the Payment Management System through the Electronic Handbook.

The form changes are only applicable to the HRSA 99–1 (also known as Exhibit O (2)) and the HRSA 99–5. All other hospital and auditor forms are the same as currently approved. The changes to the HRSA 99–1 and HRSA 99–5 forms require OMB approval and are as follows:

1. HRSA 99–1: Add additional description to Line 4.06 (both Page 2 and Page 2 Supplemental), 5.06 and 6.06. The current description is, "FTE adjusted cap." The new description will be, "FTE adjusted cap or 2013 CHGME Reauthorization cap due to Public Law 113–98."

2. HRSA 99–5: Remove Payment Information question and check boxes (Applicable only to: (1) Hospitals which have not previously participated in the CHGME Payment Program, and (2) hospitals in which financial institution information has changed since submission of its last application).

Need and Proposed Use of the Information: Data on the number of FTE residents trained are collected from children's hospitals applying for CHGME Payment Program funding. These data are used to determine the amount of direct and indirect medical education payments to be distributed to participating children's hospitals. Indirect medical education payments will also be derived from a formula that requires the reporting of discharges, beds, and case mix index information from participating children's hospitals. As required by legislation, the FTE resident assessment shall determine any changes to the FTE resident counts initially reported to the CHGME Payment Program.

Likely Respondents: The likely respondents include both the estimated 60 children's hospitals that apply and receive CHGME Payment Program funding, as well as the 30 auditors contracted by HRSA to perform the FTE resident assessments of all the children's hospitals participating in the CHGME Payment Program. Children's hospitals applying for CHGME Payment Program funding are required by the CHGME Payment Program statute to submit data on the number of FTE residents trained in an annual application. Once funded by the CHGME Payment Program, these same children's hospitals are required to submit audited data on the number of FTE residents trained during the Federal fiscal year to participate in the reconciliation payment process. Contracted auditors are requested by HRSA to submit assessed data on the number of FTE residents trained by the children's hospitals participating in the CHGME Payment Program in an FTE resident assessment summary.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Application Cover Letter (Initial and Reconciliation)	60	2	120	0.33	39.6
HRSA 99 (Initial and Reconciliation)	60	2	120	0.33	39.6
HRSA 99–1 (Initial)	60	1	60	26.5	1,590
HRSA 99–1 (Reconciliation)	60	1	60	6.5	390
HRSA 99–1 (Supplemental) (FTE Resident Assessment)	30	2	60	3.67	220.2
HRSA 99–2 (Initial)	60	1	60	11.33	679.8
HRSA 99–2 (Reconciliation)	60	1	60	3.67	220.2
HRSA 99–4 (Reconciliation)	60	1	60	12.5	750
HRSA 99–5 (Initial and Reconciliation)	60	2	120	0.33	39.6
CFO Form Letter (Initial and Reconciliation)	60	2	120	0.33	39.6
Exhibit 2 (Initial and Reconciliation)	60	2	120	0.33	39.6
Exhibit 3 (Initial and Reconciliation)	60	2	120	0.33	39.6
Exhibit 4 (Initial and Reconciliation)	60	2	120	0.33	39.6
FTE Resident Assessment Cover Letter (FTE Resident Assessment)	30	2	60	0.33	19.8
Conversation Record (FTE Resident Assessment)	30	2	60	3.67	220.2
Exhibit C (FTE Resident Assessment)	30	2	60	3.67	220.2
Exhibit F (FTE Resident Assessment)	30	2	60	3.67	220.2
Exhibit N (FTE Resident Assessment)	30	2	60	3.67	220.2
Exhibit O(1) (FTE Resident Assessment)	30	2	60	3.67	220.2
Exhibit O(2) (FTE Resident Assessment)	30	2	60	26.5	1590
Exhibit P (FTE Resident Assessment)	30	2	60	3.67	220.2
Exhibit P(2) (FTE Resident Assessment)	30	2	60	3.67	220.2
Exhibit S (FTE Resident Assessment)	30	2	60	3.67	220.2
Exhibit T (FTE Resident Assessment)	30	2	60	3.67	220.2
Exhibit T(1) (FTE Resident Assessment)	30	2	60	3.67	220.2
Exhibit 1 (FTE Resident Assessment)	30	2	60	0.33	19.8
Exhibit 2 (FTE Resident Assessment)	30	2	60	0.33	19.8
Exhibit 3 (FTE Resident Assessment)	30	2	60	0.33	19.8

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Exhibit 4 (FTE Resident Assessment)	30	2	60	0.33	19.8
Total	*90		*90		8018.4

*The total is 90 because the same hospitals and auditors are completing the forms.

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Jason E. Bennett,

Director, Division of Executive Secretariat.

[FR Doc. 2016–14656 Filed 6–20–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: 4040–0005 30-day notice]

Agency Information Collection Request; 30-Day Public Comment Request, Grants.gov

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, *Grants.gov* (EGOV), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, email your request, including your address, phone number, OMB number, to *Ed.Calimag@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Send written comments and recommendations for the proposed information collections within 30 days of this notice directly to the *Grants.gov* OMB Desk Officer; faxed to OMB at 202–395–6974.

Proposed Project

Application for Federal Assistance SF–424 Individual

3 Year Extension

Office: Grants.gov

Abstract: 4040–0005 is an OMB-approved collection. This information collection is used by more than 2 Federal grant-making entities, but not by HHS. Therefore, burden hours are not reported for HHS. Since this IC is used by more than 2 Federal grant-making entities, *Grants.gov* seeks to assign this as a common form. This IC expires on July 31, 2016. We are requesting a three-year clearance for 4040–0005 and that the form be designated as a common forms.

ESTIMATED ANNUALIZED BURDEN TABLE

Forms (If necessary)	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Application for Federal Assistance SF–424 Individual.	Grant Applicant	0	1	1	0
Total		0			0

Terry S. Clark,

Asst. Information Collection Clearance Officer.

[FR Doc. 2016–14476 Filed 6–20–16; 8:45 am]

BILLING CODE 4151–AE–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of a meeting of the Board of Scientific Counselors, National Center for Biotechnology Information.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL LIBRARY OF MEDICINE, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Center for Biotechnology Information.

Date: November 15, 2016.

Open: 8:30 a.m. to 12:00 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Open: 2:00 p.m. to 3:00 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: David J. Lipman, MD, Director, National Center for Biotechnology Information, National Library of Medicine, Building 38A, Room 8N805, Bethesda, MD 20892, 301–435–5985, *dlipman@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS).

Dated: June 15, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14549 Filed 6–20–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of meetings of the Board of Regents of the National Library of Medicine.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Regents of the National Library of Medicine Extramural Programs Subcommittee.

Date: September 13, 2016.

Closed: 7:45 a.m. to 8:45 a.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Betsy L. Humphreys, M.L.S., Acting Director, National Library of Medicine, 8600 Rockville Pike, Building 38, Room 2E17, Bethesda, MD 20892, 301–496–6661, *humphreb@mail.nih.gov.*

Name of Committee: Board of Regents of the National Library of Medicine.

Date: September 13–14, 2016.

Open: September 13, 2016, 9:00 a.m. to 4:30 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: September 13, 2016, 4:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Open: September 14, 2016, 9:00 a.m. to 12:00 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Betsy L. Humphreys, M.L.S., Acting Director, National Library of Medicine, 8600 Rockville Pike, Building 38, Room 2E17, Bethesda, MD 20892, 301–496–6661, *humphreb@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nlm.nih.gov/od/bor/bor.html,* where an agenda and any additional information for the meeting will be posted when available. This meeting will be broadcast to the public, and available for at viewing at *http://videocast.nih.gov* on September 13–14, 2016.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS).

Dated: June 15, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14547 Filed 6–20–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Integrated Preclinical/Clinical AIDS Vaccine Development Program (U19).

Date: July 11, 2016.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Roberta Binder, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G21A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5050, *rbinder@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 15, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14545 Filed 6–20–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of a meeting of the Literature Selection Technical Review Committee.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The portions of the meeting devoted to the review and evaluation of journals for potential indexing by the National Library of Medicine will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C., as amended. Premature disclosure of the titles of the journals as potential titles to be indexed by the National Library of Medicine, the discussions, and the presence of individuals associated with these publications could significantly frustrate the review and evaluation of individual journals.

Name of Committee: Literature Selection Technical Review Committee.

Date: October 27–28, 2016.

Open: October 27, 2016, 8:30 a.m. to 10:45 a.m.

Agenda: Administrative.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: October 27, 2016, 10:45 a.m. to 5:00 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: October 28, 2016, 8:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Joyce Backus, M.S.L.S., Associate Director, Division of Library Operations, National Library of Medicine, 8600 Rockville Pike, Building 38, Room 2W04, Bethesda, MD 20892, 301–496–6921, *backusj@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: June 15, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14548 Filed 6–20–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of a meeting of the Board of Scientific Counselors, Lister Hill National Center for Biomedical Communications.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C., as amended for review, discussion, and evaluation of individual intramural programs and projects conducted by the National Library of Medicine, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, Lister Hill National Center for Biomedical Communications.

Date: September 8–9, 2016.

Open: September 8, 2016, 9:00 a.m. to 12:00 p.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: September 8, 2016, 12:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate personal qualifications, performance, and competence of individual investigators.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: September 9, 2016, 9:00 a.m. to 10:00 a.m.

Agenda: To review and evaluate personal qualifications, performance, and competence of individual investigators.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Karen Steely, Program Assistant, Lister Hill National Center for Biomedical Communications, National Library of Medicine, Building 38A, Room 7S707, Bethesda, MD 20892, 301–827–4385 *ksteely@mail.nih.gov.*

Open: September 9, 2016, 10:00 a.m. to 11:30 a.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Karen Steely, Program Assistant, Lister Hill National Center for Biomedical Communications, National

Library of Medicine, Building 38A, Room 7S707, Bethesda, MD 20892, 301–827–4385, *ksteely@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: June 15, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14546 Filed 6–20–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the meetings.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Biomedical Library and Informatics Review Committee.

Date: November 3–4, 2016.

Time: November 3, 2016, 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, 2nd Floor, The Lindberg Room, 8600 Rockville Pike, Bethesda, MD 20892.

Time: November 4, 2016, 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Contact Person: Arthur A. Petrosian, Ph.D., Chief Scientific Review Officer, Division of Extramural Programs, National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892–7968, 301–496–4253, petrosia@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: June 15, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14550 Filed 6–20–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Healthy Delivery and Methodologies.

Date: June 24, 2016.

Time: 10:30 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Wenchi Liang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, 301–435–0681, *liangw3@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bioengineering of Neuroscience, Vision, and Low Vision Technologies.

Date: June 24, 2016.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Robert C. Elliott, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5190, MSC 7846, Bethesda, MD 20892, 301–435–3009, *elliotro@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 14, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14544 Filed 6–20–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Final NIH Policy on the Use of a Single Institutional Review Board for Multi-Site Research

AGENCY: National Institutes of Health.

ACTION: Notice.

SUMMARY: The National Institutes of Health (NIH) is issuing this policy on the use of a single Institutional Review Board (IRB) for multi-site research to establish the expectation that a single IRB (sIRB) of record will be used in the ethical review of non-exempt human subjects research protocols funded by the NIH that are carried out at more than one site in the United States. The goal of this policy is to enhance and streamline the IRB review process in the context of multi-site research so that research can proceed as effectively and expeditiously as possible. Eliminating duplicative IRB review is expected to reduce unnecessary administrative burdens and systemic inefficiencies without diminishing human subjects protections. The shift in workload away from conducting redundant reviews is also expected to allow IRBs to concentrate more time and attention on the review of single site protocols, thereby enhancing research oversight.

DATES: This policy will take effect May 25, 2017.

FOR FURTHER INFORMATION CONTACT: Office of Science Policy, National Institutes of Health, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892, 301–496–9838, *SingleIRBpolicy@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The NIH published for public comment a proposed draft sIRB policy in a notice in the NIH Guide for Grants and Contracts on December 3, 2014, (*http://grants.nih.gov/grants/guide/notice-files/NOT-OD-15-026.html*) and in the **Federal Register** on January 6, 2015, (80 FR 511) (*https://federalregister.gov/a/2014-30964*). The NIH received 167 comments from a range of stakeholders, including individual researchers, academic institutions, IRBs, patient advocacy groups, scientific societies, healthcare organizations, Tribal Nation representatives, and the general public. A compilation of the public comments is available at *http://osp.od.nih.gov/sites/default/files/resources/sIRB%2007-21-2015.pdf.* The NIH appreciated the public interest in the draft policy and the time and effort stakeholders made to provide comments. The NIH carefully considered those comments in the development of the final policy.

Overview of the Public Comments

In general, most of the comments that were submitted on the draft policy were supportive of NIH's goal of enhancing and streamlining IRB review in multi-site research. Commenters, especially individual researchers, scientific and professional societies, and patient advocacy organizations, generally agreed that the use of a single IRB for multi-site studies involving the same protocol would help streamline IRB review and would not undermine and might even enhance protections for research participants. Most of the comments also favored the approach the NIH proposed to promote the use of single IRBs by making reliance on an sIRB an expectation for all non-exempt multi-site studies carried out at U.S. sites. At the same time, a number of commenters, mainly academic institutions and organizations representing them, did not agree with the scope of the proposed policy or that it should become a term and condition of funding, and suggested the NIH incentivize, not mandate, reliance on an sIRB.

Comments from researchers that supported the draft policy described unnecessary delays and additional costs caused by duplicative IRB reviews. They noted that IRB submission requirements at each site differ and take time to navigate and manage. They also indicated that review of the same protocol by multiple IRBs can sometimes lead to protocol and consent document changes that can introduce inconsistencies in the execution of the protocol across sites, lead to enrollment imbalances, and skew the analysis of the aggregated data. More often, however, multiple IRB reviews result in changes to consent documents that are merely stylistic and not substantive, or changes that focus on institutional interests (*e.g.,* liability management) rather than human research protections. Commenters raised the concern that the current practice of requiring multiple IRB reviews may actually contribute to some researchers' reluctance to participate in rigorous, multi-site research and may incentivize smaller and simpler study designs.

Scientific and professional societies generally favored the proposed policy. These stakeholders stated that the policy would decrease administrative burdens on clinical research staff, speed up participant recruitment, and streamline the research process and that these changes would result in enhancements to the efficiency of research and acceleration of research progress. They also suggested that the benefits of such a policy include enhanced adverse event monitoring and improvements to the quality and consistency of IRB reviews.

Most of the comments from patient advocacy groups and participant representatives were supportive of the proposed policy. These stakeholders pointed out that greater use of single IRBs will lead to enhanced protections through increased accountability and improved efficiency.

In general, comments from academic institutions, IRBs, and organizations that represent them cited concerns about the proposed policy, even though many also expressed support for its goal and agreed it could have a positive impact in reducing research review and initiation time to the study. These stakeholders suggested that the scope of the proposed policy is too broad and that the NIH should not make the policy a term and condition of award. They said that decisions about whether to use a single IRB should be voluntary and that the NIH should offer incentives to promote change. For example, they suggested that the NIH encourage investigators and institutions to use single IRBs in grant applications by providing additional funding to those grants that agree to use a single IRB. Some suggested that before issuing a broad policy, the NIH should pilot and evaluate a narrower use of single IRBs and provide appropriate resources to support the participating awardees. Others suggested that the NIH should fund research on existing central IRB models to evaluate potential benefits and costs before mandating single IRB review. A few commenters raised concerns about the timing of the policy in relation to the revisions of the Common Rule, stating their preference that the NIH not adopt a single IRB policy until Common Rule revisions have been finalized. However, other commenters praised the NIH for addressing the single IRB issue in the absence of an updated Common Rule. Finally, a few commenters discussed how the policy could be harmonized with other federal policies. One commenter recommended that the Office for Human Research Protections (OHRP) in the Department of Health and Human Services (HHS) provide guidance to support the policy's stance on duplicative IRB review.

Stakeholders from academic institutions were concerned that the membership of any given sIRB would not be able to achieve the level of local support for a particular research study or its acceptability in terms of all the participating sites' institutional commitments and regulations, applicable laws, and standards of professional conduct and practice. Some commenters contended that only a local IRB is able to understand the specific protections required for a vulnerable population that comprises their research participant base. Some suggested that site-specific practices for recruitment and retention, especially for vulnerable populations, would pose challenges for an sIRB. A number of commenters stated that their institutional IRBs are in the best position to know and understand competencies of and potential conflicts of interest of specific investigators. Others stressed the importance of the relationship between an investigator and the local IRB and noted that IRB members can serve as mentors to investigators whose protocols they oversee.

Some commenters asserted that the proposed policy does not recognize the time and effort needed to identify and establish a single IRB of record, including negotiating and executing authorization agreements and standard operating procedures, conducting study initiation meetings, creating account activities, and modifying information technology (IT) systems. They suggested that the policy would result in the formation of hundreds of different "single IRBs of record" with which institutions and investigators will need to interact. Some questioned whether an sIRB would be equipped to ensure local compliance at a relying institution and expressed the concern that a compliance problem for an sIRB would lead to compliance actions against the sites relying on that sIRB. Several commenters who supported the use of sIRBs recommended that rather than having participating sites identify a single IRB for each protocol, the NIH should establish a central IRB to review all multi-site research studies, akin to the National Cancer Institute's Central Institutional Review Board (CIRB). They suggested that this approach would create an even "playing field" for every institution, big or small, regardless of whether their own IRB has the resources to act as a single IRB of record.

Many commenters, regardless of whether or not they supported the proposed policy, noted that over the past several decades, the IRB's role has been expanded to include functions that go beyond ethical review of proposed research. For example, IRBs are often responsible for reviewing compliance with institutional policies, such as conflict of interest and investigator training. Commenters in favor of the proposed policy thought that greater use of sIRBs would help to return sIRB review to its primary mission of ensuring appropriate protections for human subjects rather than protecting the institution from legal liability or damage to its reputation. They also suggested that when institutions rely on a single IRB of record for multi-site research studies, IRB responsibilities are clearer, which helps institutions to develop policies and to provide resources beyond IRB review (*e.g.,* human research protections experts) to facilitate compliance with the institutional human research protections program. Some commenters opposed to the proposed Policy suggested that the ancillary responsibilities of IRBs are so intertwined with the research oversight responsibilities that using a sIRB would disrupt the existing system of "checks and balances" at institutions. They also argued that the opportunity for the IRB to recommend protocol changes for reasons unrelated to ethical review (*e.g.,* scientific improvements, changes to study design) would be lost.

Many commenters, regardless of whether they supported or opposed the proposed policy, made a number of specific practical suggestions about implementation. These are summarized below.

Applicability. Most commenters supported a broad application of the policy to all studies involving the same protocol carried out at multiple sites in the U.S. These stakeholders stated that use of a single IRB of record for all types of studies and populations and study arrangements would encourage standardization of clinical research protocols and more effective implementation of protocols and protocol amendments. In contrast, a number of commenters suggested that the NIH should narrow the application of the policy or phase it in over time. Ideas about how the applicability of the policy should be narrowed were wide-ranging. Some stakeholders suggested that the level of risk should be a consideration in whether the policy should apply, with some pointing to minimal risk research and others to research involving more than minimal risk as being more appropriate for single IRB review. Others suggested that the policy should apply only to multi-site studies that involve a large number of sites (*e.g.,* greater than 10); only to research involving clinical trials; only to studies carried out within established cooperative groups; or only to lengthy studies requiring an extended period of IRB oversight, *e.g.,* three years or more. Some commenters suggested that the applicability of the policy remain broad, but that it be phased in over time.

Exceptions. The draft policy proposed exceptions only if the designated single IRB of record is unable to meet the needs of specific populations or where local IRB review is required by federal, tribal, or state laws or regulations. Most commenters agreed that there was a need to allow for exceptions to the ues of a single IRB. There were a number of comments calling for additional exceptions to those proposed in the policy. Commenters who generally supported the proposed policy stated that exceptions should be very limited. Some were concerned that a determination that the sIRB would be unable to meet the needs of specific populations was an overly subjective criterion or that institutions would routinely request exceptions asserting that the needs of specific populations could only be met by local IRBs. Tribal Nation commenters pointed to the importance of firsthand knowledge of local tribal customs, cultural values, and tribal sensitivities and supported exceptions to address those needs and also as a way of respecting tribal sovereignty. Other commenters said that the policy should allow for situational exceptions, depending on the types and complexity of studies and study teams, types and numbers of involved institutions, resources available for the sIRB (including IT resources), available resources for investigators, accreditation status of the human research protection program, or when study sites have concerns regarding the constitution of the designated reviewing IRB, that IRBs' experience reviewing a particular type of research was inadequate, or if relying on the single IRB would affect the institutional IRB's accreditation status.

Assuring Consideration of Local Context. Commenters were divided about the extent to which individual sites' local contexts would present a challenge for an sIRB. Some commenters suggested that in today's highly interconnected world, local contexts would not be unique or different enough to affect the review of research protocols. Others suggested that local context does vary, not only from state to state and community to community, but even among institutions serving the same community.

Commenters identified a number of capabilities that the sIRB would need to have in order to be effective, and one comment identified four such capabilities:

- Knowledge of state law and local standards relevant to human subject research, *e.g.,* age of majority and assent laws, mandatory reporting, data security, and awareness of differences in laws that would affect research conducted at sites in multiple states.
- Systems and procedures for collecting information from participating sites in order to ascertain whether the research could feasibly be carried out at the site. The sIRB would need to consider the number of competing studies underway, limits to participant pools, and whether the site had the capabilities and resources to execute research studies. Resources for consideration would include space, equipment, drug/device storage, handling, and dispensing, data storage capacities, and personnel, needed to support the research. Institutional capabilities would include policies on issues such as confidentiality, contraception, compensation for injury, or contacts who can answer research subjects' questions.
- Mechanisms in place to assess the experience and qualifications of site investigators and study staff, including whether they are in good standing with state board and other licensing authorities and have a good record of compliance with all laws and regulations. Other factors to be considered in this assessment would include financial conflicts of interest, research workload, and training in research ethics and the responsible conduct of research.
- Mechanisms for obtaining supplemental information when research would involve sensitive topics or when research would require the participation of discrete and insular communities. In some cases, the sIRB

might need community-related information and demographic data including, but not limited to, race/ethnicity, religious affiliation, and language.

Selection of the IRB of Record. A number of commenters called on the NIH to establish criteria or a minimum set of requirements to assist in the selection of the sIRB, as well as a need for criteria for an sIRB to use in its evaluation of participating sites. One commenter suggested that the NIH policy should require the applicant, offeror, or intramural investigator to justify their proposed sIRB. Since the NIH funding Institute or Center (IC) must approve the sIRB, one commenter suggested that the NIH describe the criteria to be used in making a determination that the proposed sIRB is acceptable.

Some commenters offered specific suggestions for sIRB evaluation criteria. Suggestions for evaluation criteria included the following:

- Evidence of a commitment to the highest ethical standards and ability to meet rigorous standards for quality and protection of research participants, *e.g.*, through accreditation or assessment of policies, procedures, and practices;
- Ability to meet regulatory requirements;
- Well-established track record of compliance and performing high quality reviews, *e.g.*, no regulatory errors or failures to address Common Rule regulatory requirements or Food and Drug Administration regulations;
- Appropriate expertise and experience to review the proposed research and the capacity to review the study protocol and participating sites;
- Recognition of the importance of building trust across all sites;
- Capacity to develop and maintain the respect and trust of the research participants and the communities in which the research is performed;
- Willingness and ability to serve as a Privacy Board to fulfill the requirements of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule for use or disclosure of protected health information for research;
- Adherence to communication standards and a commitment to transparency through sharing information about the review process, *e.g.*, meeting minutes, approval status;
- Adequate institutional infrastructure and support, and evidence of quality and robustness of the institution's human research protection program;
- Sufficient staff to handle communications between all sites for initial review, continuing review, adverse events, amendments, etc.;
- Available interoperable information technology resources to facilitate communication and exchange of information between the participating institutions;
- Sufficient resources to negotiate and track authorization agreements;
- Ability to account for the IRB costs for review and management and how those costs will be met;
- Adequate processes in place and administrative support to handle additional review responsibilities;
- Statement of support from the nominated IRB and, if applicable, its governing institution, and the participating investigators.

Defining IRB and Institutional Responsibilities. Many commenters pointed out the importance of defining the sIRB's role and scope of responsibility in relation to the responsibilities of the participating research sites. These commenters noted that responsibilities of IRBs defined by the 45 CFR 46 often constitute only one part of institutions' overall human research protections program. Commenters called on the NIH to establish a common approach to the division of responsibilities by providing model authorization agreements or even a uniform agreement that should be used in all cases. In addition to helping ensure a well-functioning review process, clear roles and responsibilities would, some suggested, also help mitigate concerns about added liability that an sIRB might assume.

A range of views were expressed relating to responsibilities that would be assumed by the sIRB and those that would remain with participating sites. Some commenters suggested that in addition to fulfilling the requirements set out in 45 CFR 46, *i.e.*, conducting initial and continuing reviews of protocols, amendments, unanticipated problems, protocol deviations, and required regulatory IRB reporting, sIRBs should adopt some of the responsibilities that are frequently delegated to local IRBs, in particular, acting as a privacy board for all sites. One commenter noted that systems would be required to ensure that duplicative reviews are not conducted by the sIRB and local IRBs, and several commenters expressed concerns about the difficulty of coordinating required sIRB reviews with additional reviews that are not required by regulation, such as reviews for conflict of interest, investigator qualifications, and scientific merit. Some of these commenters questioned how sIRB reviews required by the HHS regulations should be coordinated with other required reviews that may have been delegated to the local IRB. These commenters noted that many institutions have established systems and standard operating procedures for coordinating local IRB review with other required reviews, such as institutional biosafety reviews, radiation safety reviews, pharmacy reviews, reviews required by state or local laws, post-approval monitoring and for-cause auditing purposes, and research billing. One commenter suggested that sIRBs should not be responsible for adverse event reporting. Another commenter suggested that sIRBs should be responsible for maintaining databases of relevant state laws. In addition, a small number of commenters indicated that the regulations of other Common Rule agencies, FDA in particular, may create contradictory requirements, and called for clarification and a more unified approach.

Several commenters stated that coordinating these additional reviews with sIRB reviews would limit the gains in efficiency realized from reliance on an sIRB. One commenter recommended that the NIH develop a template IRB authorization agreement and guidelines to define the institutional obligations that are distinct from the IRB review responsibilities. Another commenter recommended that the NIH publish guidance delineating the specific regulatory requirements for which the sIRB would be responsible, shared responsibilities, and responsibilities that an sIRB could negotiate with IRBs at participating sites.

Resources and Funding. Several commenters described the proposed policy as an unfunded mandate, or stated that it would result in a shifting of expenses from one institution to another. Many commenters expressed the concern that if costs associated with using a single IRB are taken from a participating institution's indirect costs, there would be insufficient funds for the local Human Research Protection Program (HRPP) that still has institutional oversight responsibilities, even if the IRB of record is external. Most commenters with experience using a single IRB of record for multi-site research studies recommended that indirect costs remain unchanged for relying institutions in order to ensure that the human research protections infrastructure are available for institutional responsibilities, *e.g.*, post-approval compliance monitoring, conflict of interest reviews. Many commenters noted funding sIRBs through indirect costs would divert funds required to conduct research and serve as a disincentive to conducting multisite research. The majority of commenters stated a preference for including the additional costs associated with a single IRB review in the study budget as direct cost, although one commenter stated a preference that sIRB review be included as an indirect cost in order to maximize the amount of funding available for research.

Several commenters stated that the costs and resources needed to establish sIRBs were not addressed by the proposed policy. Infrastructure needs noted by these commenters included additional staff and/or staff time to perform sIRB-related activities, costs to create or adapt electronic managements systems that are interoperable with outside institutions, and the time and cost of developing communication tools to link investigators to IRBs outside their institution. Other commenters familiar with the operations and use of sIRBs noted that while initial financial support from the NIH may be required to establish or expand the capacity of some IRBs to serve as the IRB of record, most sIRBs should be able to become self-supporting eventually.

Commenters had questions about whether plans for single IRB review would be required in grant applications and how plans would be reviewed.

Need for Implementation Guidance. A number of commenters pointed out how important it would be for the NIH to provide practical guidance to facilitate the implementation of the policy, with some commenters stating that, in the absence of such guidance, burden and costs would only shift between institutions rather than adding efficiency to the IRB process. A few commenters noted that this guidance could be developed using the experiences of IRBs that have already implemented centralized IRB review processes.

In addition to general requests for implementation guidance, a number of commenters made specific guidance suggestions. These suggestions included the need for guidance covering:

- The specific criteria to use for evaluation of IRBs of record when selecting a single IRB for a multisite study;
- The process for determining roles and responsibilities of the sIRB versus IRBs of participating research sites and a standard authorization agreement template that specifies these roles and responsibilities. One commenter recommended that this guidance clearly define who is responsible for ensuring investigator compliance, while another recommended that this guidance cover review of modifications to approved research, addition of research sites, and other post- approval monitoring issues including the relationship between the IRB and a data monitoring committee (such as a data and safety monitoring board). A number of commenters asked the NIH to provide guidance about liability as part of this guidance;
- Processes for local IRBs working with an sIRB, including what types of reviews will be performed by the local IRB (radiation safety review, pharmacy review, conflicts of interest) and best practices for maintaining oversight of research reviewed and approved by a non-institutional IRB. Additionally, one commenter requested that NIH encourage and provide guidance for institutional review of the impact the sIRB will have on the institution's HRPP business goals, policies, accreditation status, tracking and management processes;
- Consent forms, including the process of consent approval by the sIRB and participating sites, and whether and how local institutions could alter an sIRB informed consent document to fit local needs;
- Plans to ensure quality and processes for institutions relying on an sIRB to question or appeal sIRB decisions, and to address and resolve issues arising from duplicate reviews.

In addition, commenters requested:

- Guidance and tools to enable sIRBs to consider local context issues. Specific guidance was requested on the process by which sIRBs would collect local information (*e.g.,* through a standard form or through an ad hoc member or consultant with local context knowledge), and what types of information should be provided to sIRBs (*e.g.,* how to apply state and local laws). One commenter also recommended that the NIH develop a set of guidelines for how the sIRB would apply local standards, knowledge of institutional policies, institutional capacity issues, investigator and study staff qualifications, and local community and subject considerations to their reviews;
- An explanation of costs associated with development and maintenance of sIRBs and guidance on how the use of an sIRB should be proposed at the grant level, including a fee structure to help investigators incorporate sIRB review into their budgets;
- A more detailed description of the standards for permitting exceptions for sIRB review;
- A description of what resources, if any, NIH would make available to assist in training IRBs and researchers regarding single IRB review.

Some of the commenters who requested guidance recommended that any NIH guidance on sIRBs be released along with or prior to the issuance of the final policy.

Implementation of the Policy. In developing the final policy set out below, the NIH carefully considered the many thoughtful comments we received on the Draft NIH Policy on the Use of a Single Institutional Review Board (IRB) for Multi-Site Research (NOT–OD–15–026). While we found no compelling reason to narrow the essential scope of the final policy—it will cover all domestic sites of NIH-funded non-exempt multi-site studies as was proposed—we have clarified the policy intent and modified several provisions. The final policy is intended to apply only to studies where the same research protocol is being conducted at more than one site; it does not apply to studies that involve more than one site but the sites have different roles in carrying out the research. Applicants/offerors will be expected to submit a plan identifying the sIRB that will serve as the IRB of record for all study sites. It will be the responsibility of the applicant/offeror to assure that the sIRB is qualified to serve; the applicant's plan will not be evaluated in peer review. The additional costs associated with sIRB review may be charged to grants or contracts as direct costs, provided that such costs are well-justified and consistently treated as either direct or indirect costs according to applicable cost principles in the NIH Grants Policy Statement and the FAR 31.202 (Direct Costs) and FAR 31.203 (Indirect Costs). Exceptions to the policy will be granted, as was proposed, if the use of an sIRB is prohibited by federal, state, or tribal laws or regulations. We will also grant exceptions where the federal, state, or tribal prohibition on the use of an sIRB is established by policy, and we will consider granting an exception if a request is made and a compelling justification provided for why an exception is needed. Such justifications could be for reasons other than that the sIRB is unable to meet the needs of a specific population, as was proposed in the draft policy. The final policy also clarifies that multi-site studies within ongoing, non-competing awards will not be expected to comply with the policy until a competing renewal application is submitted.

The NIH recognizes that the policy will begin a paradigm shift in IRB review. As such, the final policy will not take effect until May 25, 2017. In the interim, the NIH will issue guidance and provide resources to assist awardees in adapting to the shift.

Guidance materials will be issued before the policy's effective date and posted along with the policy on the following site: *http://osp.od.nih.gov/office-clinical-research-and-bioethics-policy/clinical-research-policy/models-irb-review.* Among other topics, the guidance will address:

- How costs associated with sIRBs may be charged as direct versus indirect costs;
- Considerations in the selection of the sIRB;
- The content of the sIRB plan that must be submitted with applications and proposals;
- Process for applicants/offerors to submit a request for an exception and process for NIH review of the request for exception;
- Roles and responsibilities of the sIRB and participating sites;
- Model authorization agreement that lays out the roles and responsibilities of each signatory;
- Models for gathering and evaluating information from all the reliant sites about community attitudes and the acceptability of proposed research;
- A model communication plan that identifies when and which documents are to be completed and shared with those involved so each may fulfill their responsibilities.

Finally, while the NIH anticipates that that there will be challenges associated with implementation, we expect these to be short-lived. Once the transition to the new way of operating is made, the benefits of widespread use of sIRBs will outweigh any costs and, ultimately, reduce burdens to the research process. At the same time, the NIH will also closely monitor the implementation of the policy, consider its impact on research such as improvements in time to initiation of research and reduction of unnecessary burden, and be vigilant about any diminution in the protection of human subjects.

Final NIH Policy on the Use of a Single Institutional Review Board for Multi-Site Research

Purpose

The National Institutes of Health (NIH) Policy on the Use of a Single Institutional Review Board of Record for Multi-Site Research establishes the expectation that all sites participating in multi-site studies involving non-exempt human subjects research funded by the National Institutes of Health (NIH) will use a single Institutional Review Board (sIRB) to conduct the ethical review required by the Department of Health and Human Services regulations for the Protection of Human Subjects at 45 CFR part 46. This policy, which is consistent with 45 CFR part 46.114, is intended to enhance and streamline the process of IRB review and reduce inefficiencies so that research can proceed as expeditiously as possible without compromising ethical principles and protections for human research participants.

Scope and Applicability

This policy applies to the domestic sites of NIH-funded multi-site studies where each site will conduct the same protocol involving non-exempt human subjects research, whether supported through grants, cooperative agreements, contracts, or the NIH Intramural Research Program. It does not apply to career development, research training or fellowship awards.

This policy applies to domestic awardees and participating domestic sites. Foreign sites participating in NIH-funded, multi-site studies will not be expected to follow this policy.

Consistent with the Roles and Responsibilities section, applicants/offerors will be expected to include a plan for the use of an sIRB in the applications/proposals they submit to the NIH. The NIH's acceptance of the submitted plan will be incorporated as a term and condition in the Notice of Award or in the Contract Award. This policy also applies to the NIH Intramural Research Program.

Definitions

The Authorization Agreement, which is also called a reliance agreement, is the agreement that documents respective authorities, roles, responsibilities, and communication between an institution/organization providing the ethical review and a participating site relying on the sIRB.

A multi-site study uses the same protocol to conduct non-exempt human subjects research at more than one site.

Participating site in a multi-site study is a domestic entity that will rely on the sIRB to carry out the site's initial and continuing IRB review of human subjects research for the multi-site study.

sIRB is the single IRB of record that has been selected to carry out the IRB review requirements at 45 CFR part 46 for participating sites of the multi-site study.

Roles and Responsibilities

This policy establishes the following roles and responsibilities:

Applicant/Offeror. In the application/proposal for research funding, the applicant/offeror is expected to submit a plan describing the use of an sIRB that will be selected to serve as the IRB of record for all study sites. The plan should include a statement confirming that participating sites will adhere to the sIRB Policy and describe how communications between sites and sIRB will be handled. If, in delayed-onset research, an sIRB has not yet been identified, applications/proposals should include a statement that awardees will follow this Policy and communicate plans to use a registered IRB of record to the funding NIH Institute/Center prior to initiating a multi-site study. The applicant/offeror may request direct cost funding for the additional costs associated with the establishment and review of the multi-site study by the sIRB, with appropriate justification; all such costs must be reasonable and consistent with cost principles, as described in the NIH Grants Policy Statement and the Federal Acquisition Regulation (FAR) 31.302 (Direct Costs) and FAR 31.203 (Indirect Costs).

Awardees. Awardees are responsible for ensuring that authorization agreements are in place; copies of authorization agreements and other necessary documentation should be maintained in order to document compliance with this policy, as needed. As appropriate, awardees are responsible for ensuring that a mechanism for communication between the sIRB and participating sites is established. Awardees may delegate the tasks associated with these responsibilities.

Funding Institute or Center (IC). Funding ICs are responsible for management and oversight of the award, including communicating with the awardee regarding the implementation of its proposed plan to comply with the sIRB Policy. In the event that questions arise about the awardee's plan, including the IRB that has been selected to serve as the sIRB, the funding IC will work with the awardee to resolve them.

sIRB. The sIRB is responsible for conducting the ethical review of NIH-funded multi-site studies for participating sites. The sIRB will be expected to carry out the regulatory requirements as specified under the HHS regulations at 45 CFR part 46. In reviewing multi-site research protocols, the sIRB may serve as a Privacy Board, as applicable, to fulfill the requirements of the HIPAA Privacy Rule for use or disclosure of protected health information for research purposes. The sIRB will collaborate with the awardee to establish a mechanism for communication between the sIRB and the participating sites.

Participating Site. All sites participating in a multi-site study are expected to rely on an sIRB to carry out the functions that are required for institutional compliance with IRB review set forth in the HHS regulations at 45 CFR 46. Participating sites are responsible for meeting other regulatory obligations, such as obtaining informed consent, overseeing the implementation of the approved protocol, and reporting unanticipated problems and study progress to the sIRB. Participating sites must communicate relevant information necessary for the sIRB to consider local context issues and state/local regulatory requirements during its deliberations. Participating sites are expected to rely on the sIRB to satisfy the regulatory requirements relevant to the ethical review. Although IRB ethical review at a participating site would be counter to the intent and goal of this policy, the policy does not prohibit any participating site from duplicating the sIRB. However, if this approach is taken, NIH funds may not be used to pay for the cost of the duplicate review.

Exceptions

Exceptions to this policy will be made where review by the proposed sIRB would be prohibited by a federal, tribal, or state law, regulation, or policy. Requests for exceptions that are not based on a legal, regulatory, or policy requirement will be considered if there is a compelling justification for the exception. The NIH will determine whether to grant an exception following an assessment of the need.

Effective Date

This policy applies to all competing grant applications (new, renewal, revision, or resubmission) with receipt dates on or after May 25, 2017. Ongoing, non-competing awards will not be expected to comply with this policy until the grantee submits a competing renewal application. For contracts, the policy applies to all solicitations issued on or after May 25, 2017. For the intramural program, the policy applies to intramural multi-site studies submitted for initial review after May 25, 2017.

Dated: June 14, 2016.

Lawrence Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2016–14513 Filed 6–20–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Now Is The Time (NITT)–Project AWARE (Advancing Wellness and Resilience in Education) Evaluation—New

SAMHSA is conducting a national evaluation of the Now is the Time (NITT) initiative, which includes separate programs—NITT Project AWARE (Advancing Wellness and Resilience in Education)—State Educational Agency (SEA), Healthy Transitions (HT), and two Minority Fellowship Programs (Youth and Addiction Counselors). These programs are united by their focus on capacity building, system change, and workforce development.

NITT-Project AWARE, which is the focus of this data collection, represents a response to the third and fourth components of President Obama's NITT Initiative: making schools safer and focusing on access to mental health services. The goal of NITT-Project AWARE is to develop a comprehensive, coordinated, and integrated program for advancing wellness and resilience in educational settings for school-aged youth.

SAMHSA awarded NITT-Project AWARE grants to 20 SEAs. Each SEA proposed partnerships between at least three high-need Local Educational Agencies (LEAs) to develop a coordinated and integrated plan of services and strategies to address the Project NITT-Project AWARE–SEA goals and objectives. Project AWARE grantees will plan and implement activities designed to increase the capacity of SEAs in three areas: (1) Increase mental health awareness among school-aged (K–12) youth; (2) train those who work with school-aged children to identify and respond to mental health issues in children and young adults; and (3) connect children, youth, and families with mental health services. The intention is to encourage cross-system collaboration and use evidence-based strategies to address mental health needs.

The Project AWARE evaluation will examine the process and outcomes of activities by SEA grantees and their LEA and school partners. It will evaluate the capacity of SEAs to effectively involve family and youth, provide a culturally and linguistically competent and family-centered mental health service array, and implement a process for identifying need and delivering services that is informed by data and coordinated across child-serving agencies. Evaluation questions have been developed to understand grantee context, planning, implementation, outputs, and outcomes across each of the NITT priority areas. Data collection efforts that will support the evaluation are described below.

AWARE Planning and Implementation Activities Inventory (AWARE Activities Inventory), to capture information about all activities supported by Project AWARE resources during the grant period. The inventory will be reviewed and updated on an annual basis at the SEA level with the grant project director, at the LEA level with the grant program coordinators, and at the school level with coordinators in each participating school. The questionnaires will guide review and input of additional information as needed for all activities captured in the AWARE Activities Inventory and conducted under Project AWARE. Each questionnaire will be conducted annually to review and update the AWARE Activities Inventory with 20 SEA-level respondents, 62 LEA-level respondents, and 432 school-level respondents.

SEA Collaborative Partner Survey (SEA–CPS), to collect information about collaborative processes and partnerships at the state level to examine the networks involved in successful information sharing and collaborations across child-serving agencies and the families and youth they serve. SAMHSA estimates that there will be 24 collaborative partner respondents at each SEA grantee who will complete the annual SEA–CPS.

Local Educational Agency Collaborative Partner Survey (LEA–CPS), to collect information about collaborative processes and partnerships at the local level to examine the networks involved in successful information sharing and collaborations across child-serving agencies and the families and youth they serve. The survey will be administered twice during the grant period, with 15 respondents in each of the 62 LEAs.

Collaborative Partner Interview Guide, to collect qualitative information about collaborative processes and partner roles. Approximately 160 core staff (8 SEA-level collaborative partners in each SEA grantee) are expected to participate in annual in-person and telephone interviews.

School Information Systems Data Abstraction Protocol, to capture information from existing school information systems about student socio-demographics, school climate, and school safety. The data abstraction protocol will detail the procedure through which the national evaluation team will abstract data from each LEA or school information system. These data will be requested annually to cover school-level measures from the 2014–2015 through 2018–2019 school years. School-level information will be collected at the school level for all sample schools (N = 432), but the number of respondents is calculated based on whether the school information systems are consistent across SEAs and/or LEAs, or whether they vary from school to school. Based on preliminary discussions with the grantees, SAMHSA estimates that five SEA grantees will be able to provide data for all sample schools in the SEA (N = 5 SEA respondents), the data will be provided from LEAs in ten of the SEA grantees (N = 30 LEA respondents), and the remaining five SEA grantees will have school information systems and surveys that differ at the school level (N = 90 school respondents). Therefore 125 respondents will provide the secondary data that covers the 432 sample schools.

Teacher Mental Health Literacy Survey, to assess the mental health literacy and associated knowledge and skills of teachers in selected schools participating in Project AWARE activities. This survey will be administered twice to a random sample of teachers in selected schools in partner LEAs, stratified by school type and size. An average sample size of approximately 24 teachers will be selected from each of the 432 schools selected to participate in the school-level coordinator questionnaire data collection.

Existing Teacher and Student Survey Data Abstraction Protocols, to compile information from existing surveys to examine school climate and safety. The data abstraction protocol will be customized for each SEA based on the specific data collected by each state. Data from existing teacher and student surveys in selected schools (N = 432) participating in the national evaluation will be provided to the national evaluation on an annual basis. The number of respondents is calculated based on whether the existing student and teacher surveys are consistent across SEAs and/or LEAs, or whether they vary from school to school. Based on preliminary discussions with the grantees, SAMHSA estimates that 125 respondents will provide the secondary student and teacher survey data that covers the 432 sample schools.

Student Focus Groups Protocol, to collect qualitative information about student perceptions of school climate; ability to identify signs of mental, behavioral, or emotional health issues; and student knowledge of school- and community-level service access. The evaluation team will conduct these focus groups during site visits conducted in 2016 and 2019. The guided discussion protocol will focus on participants' general knowledge of available resources, programs to support AWARE activities, and overall perceptions of school climate and safety. The focus groups will be conducted with approximately 8–10 students in each of four schools from one LEA associated with each SEA grantee, for a total of no more than 800 students participating in focus groups at each of the two site visits. Each focus group will last approximately one and a half hours.

ANNUALIZED BURDEN HOURS

Instrument	Number of respondents	Responses per respondent	Total number of responses	Hours per response	Total burden hours
SEA leadership questionnaire	20	1	20	1	20
LEA coordinator questionnaire	62	1	62	1	62
School coordinator questionnaire	432	1	432	1	432
SEA-Collaborative Partner Survey	480	1	480	0.5	240
LEA-Collaborative Partner Survey	930	1	930	0.5	465
Collaborative partner interviews	160	1	160	1	160
Teacher mental health literacy survey	10,368	1	10,368	0.5	5,184
Student focus groups	800	1	800	1.5	1,200
School information systems data abstraction	125	1	125	1.5	188
Student survey data abstraction	125	1	125	1.5	188
Teacher school climate and school safety survey	125	1	125	1.5	188
Total	[a]13,377	....	13,627	....	8,327

[a] This is an unduplicated count of total respondents.

Written comments and recommendations concerning the proposed information collection should be sent by July 21, 2016 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2016–14626 Filed 6–20–16; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Youth Programs Evaluation—NEW

The Substance Abuse and Mental Health Services Administration's (SAMHSA), Center for Substance Abuse Treatment (CSAT) is conducting a cross-site external evaluation of three grantee programs that are critical to its youth treatment grants portfolio. The three programs include the 2013 Cooperative Agreements for State Adolescent and Transitional Aged Youth Treatment Enhancement and Dissemination (SYT–ED), the 2015 and 2016 Cooperative Agreements for State Adolescent and Transitional Aged Youth Treatment Enhancement and Dissemination Implementation (SYT–I), and the 2015 Cooperative Agreements for State Adolescent and Transitional Aged Youth Treatment Enhancement and Dissemination Planning (SYT–P).

Preventing and treating substance use and/or mental health disorders are essential to SAMHSA's mission to reduce the impact of behavioral health conditions in America's communities. The specific populations (*i.e.*, adolescents, youth) targeted by the youth programs face a particular set of behavioral health risks and each of the grant programs helps provide targeted services and evidence-based practices. To evaluate the impact and success of SYT program implementation the evaluation includes the following data collection tools:

- *Implementation Interview Guide*
- *Sustainability Interview Guide*
- *Stakeholder Interview Guide*
- *Provider Survey*
- *Focus Group guides*

These data collection tools will provide essential information on each grantee program beyond the performance monitoring data already collected by SAMHSA.

The *Implementation, Sustainability,* and *Stakeholder Interview Guides* are semi-structured interviews. They are designed to collect data on information related to program implementation facilitators and barriers, infrastructure development, factors related to sustainability, and performance that will inform ongoing recommendations to improve program performance and administration. These interview guides were informed by interview guides used successfully in other evaluations including the SAMHSA Access to Recovery Evaluation, ASPE Medicaid Expansion Evaluation, and the SAMHSA Homeless Programs Evaluations. Each interview is estimated to take approximately one hour. SYT grantees and providers will participate in an interview annually while their program is active. SYT program stakeholders will participate once during the course of their respective grant program. Stakeholders include other organizations or agencies that serve or have a stake hold in helping this population, such as other state/territory/tribe organizations (*e.g.*, child welfare organizations, justice agencies), other community-based providers, or community advocacy groups. Grantee programs will be asked to complete the implementation interview annually until the last year of the grant program when they will be asked to complete the sustainability interview. Respondents will include representatives from grantee, provider and stakeholder organizations involved in the SYT programs.

The *Provider Survey* aims to collect data to help identify program activities and services that are being implemented as part of the SYT grant programs and the impact these activities/services may have on client outcomes and treatment systems. Substance abuse service provider organizations (*e.g.*, treatment facilities implementing evidence-based treatment practices) participating in SYT–ED or SYT–I grants will be asked to participate in the survey.

The provider survey will collect data on linkages with the grantee and within the youth substance use treatment system for providing services and a safety net to adolescents, transition age youth, and their families. Topics around grantee dissemination and outreach efforts as well as evidence-based practices, program costs and other training activities will also be explored. The Provider survey is estimated to take approximately 1 hour and SYT–ED provider respondents will complete the survey 2 times, once per year, during the cross-site evaluation while SYT–I provider respondents will complete the survey 3 times, once per year.

The *Focus Group guides* aim to collect the clinicians' and other direct care staff members' perspectives in implementing SYT services and the facilitators, barriers and challenges providers encountered. These data will provide valuable contextual data through which to better understand the *Provider Survey* data. Clinicians/staff members are uniquely qualified to answer implementation questions on a client, staff and community level. The *Focus Groups* will allow clinicians/staff members to provide important information around the impact of evidence-based practices in the provider organization and within the community they serve. Clinicians/staff members also will be asked about expectations around evidence-based practices, the effectiveness of implementing evidence-based practices, and the level of engagement from their organization's leadership and the provider community as a whole.

Each provider in the SYT–ED and SYT–I grantee programs will complete the *Focus Group* once and the estimated time per group is 1.5 hours. For each provider, an average of 6 respondents are expected to join the *Focus Group.*

ESTIMATED ANNUALIZED TOTAL CROSS-PROGRAM DATA COLLECTION BURDEN

Grantee cohort	Number of respondents	Responses per respondent	Total number of responses	Hours per response [a]	Total burden hours
SYT–ED grantees	286	1	286	1	286
SYT–I grantees	377	1	377	1	377
SYT–P grantees	104	1	104	1	104
Total	767	....	767	....	767

[a] Hours per response is an average annualized estimate.

ESTIMATED ANNUALIZED TOTAL BURDEN BY DATA COLLECTION INSTRUMENT/ACTIVITY

Instrument/activity	Number of respondents	Responses per respondent	Total number of responses	Hours per response [a]	Total burden hours
Sustainability Interviews	98	1	98	1	98
Implementation Interviews	124	1	124	1	124
Stakeholder Interviews	183	1	183	1	183
Provider Survey	74	1	74	1	74
Focus groups	288	1	288	1	288
Total	767	....	767	....	767

[a] Hours per response is an average annualized estimate.

Written comments and recommendations concerning the proposed information collection should be sent by July 21, 2016 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2016–14587 Filed 6–20–16; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Registration for Behavioral Health Web Site and Resources (OMB No. 0930–0313)—Extension

The Substance Abuse and Mental Health Services Administration (SAMHSA) is requesting OMB approval for an extension to the Behavioral Health Web site and Resources data collection. SAMHSA is authorized under section 501(d)(16) of the Public Health Service Act (42 U.S.C. 290aa(d)(16)) to develop and distribute materials for the prevention, treatment, and recovery from substance abuse and mental health disorders. To improve customer service and lessen the burden on the public to locate and obtain these materials, SAMHSA has developed a Web site that includes more than 1,400 free publications from SAMHSA and its component Agencies: the Center for Substance Abuse Treatment, the Center for Substance Abuse Prevention, the Center for Mental Health Services, the Center for Behavioral Health Statistics and Quality, and other SAMHSA partners, such as the Office of National Drug Control Policy. These products are available to the public for ordering and download. When a member of the public chooses to order hard-copy publications, it is necessary for SAMHSA to collect certain customer information in order to fulfill the request. To further lessen the burden on the public and provide the level of customer service that the public has come to expect from product Web sites, SAMHSA has developed a voluntary registration process for its publication Web site that allows customers to create accounts. Through these accounts, SAMHSA customers are able to access their order histories and save their shipping addresses. This reduces the burden on customers of having to re-identify materials they ordered in the past and to re-enter their shipping information each time they place an order with SAMHSA. During the Web site registration process, SAMHSA also asks customers to provide optional demographic information that helps SAMHSA evaluate the use and distribution of its publications and improve services to the public.

SAMHSA is employing a web-based form for information collection to avoid duplication and unnecessary burden on customers who register both for an account on the product Web site and for email updates. The web technology allows SAMHSA to integrate the email update subscription process into the Web site account registration process. Customers who register for an account on the product Web site are given the option of being enrolled automatically to receive SAMHSA email updates. Any optional questions answered by the customer during the Web site registration process automatically are mapped to the profile generated for the email update system, thereby reducing the collection of duplicate information.

SAMHSA collects all customer information submitted for Web site registration and email update subscriptions electronically via a series of web forms on the samhsa.gov domain. Customers can submit the web forms at their leisure, or call SAMHSA's toll-free Call Center and an information specialist will submit the forms on their behalf. The electronic collection of information reduces the burden on the respondent and streamlines the data-capturing process. SAMHSA places Web site registration information into a

Knowledge Management database and places email subscription information into a database maintained by a third-party vendor that serves multiple Federal agencies and the White House. Customers can change, add, or delete their information from either system at any time.

The respondents are behavioral health professionals, researchers, parents, caregivers, and the general public.

There are no changes to the burden or the forms.

SAMHSA estimates the burden of this information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
Website Registration	38,605	1	38,605	.033 (2 min.)	1,286
Email Update Subscription	21,138	1	21,138	.017 (1 min.)	359
Total	59,743		59,743		1,645

Send comments to Summer King, SAMHSA Reports Clearance Officer, 5600 Fishers Lane, Room 15E57–B, Rockville, Maryland 20857, *OR* email a copy to *summer.king@samhsa.hhs.gov.* Written comments should be received by August 22, 2016.

Summer King,

Statistician.

[FR Doc. 2016–14581 Filed 6–20–16; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Opioid Drugs in Maintenance and Detoxification Treatment of Opioid Dependence—42 CFR Part 8 (OMB No. 0930–0206) and Opioid Treatment Programs (OTPs)—Revision

42 CFR part 8 establishes a certification program managed by SAMHSA's Center for Substance Abuse Treatment (CSAT). The regulation requires that Opioid Treatment Programs (OTPs) be certified. "Certification" is the process by which SAMHSA determines that an OTP is qualified to provide opioid treatment under the Federal opioid treatment standards established by the Secretary of Health and Human Services. To become certified, an OTP must be accredited by a SAMHSA-approved accreditation body. The regulation also provides standards for such services as individualized treatment planning, increased medical supervision, and assessment of patient outcomes. This submission seeks continued approval of the information collection requirements in the regulation and of the forms used in implementing the regulation.

SAMHSA currently has approval for the Application for Certification to Use Opioid Drugs in a Treatment Program Under 42 CFR 8.11 (Form SMA–162); the Application for Approval as Accreditation Body Under 42 CFR 8.3(b) (Form SMA–163); and the Exception Request and Record of Justification Under 42 CFR 8.12 (Form SMA–168), which may be used by physicians when there is a patient care situation in which the physician must make a treatment decision that differs from the treatment regimen required by the regulation. Form SMA–168 is a simplified, standardized form to facilitate the documentation, request, and approval process for exceptions.

SAMHSA believes that the recordkeeping requirements in the regulation are customary and usual practices within the medical and rehabilitative communities and has not calculated a response burden for them. The recordkeeping requirements set forth in 42 CFR 8.4, 8.11, and 8.12 include maintenance of the following: 5-year retention by accreditation bodies of certain records pertaining to accreditation, and documentation by an OTP of the following: A patient's medical examination when admitted to treatment, a patient's history, a treatment plan, any prenatal support provided to the patient, justification of unusually large initial doses, changes in a patient's dosage schedule, justification of unusually large daily doses, the rationale for decreasing a patient's clinic attendance, and documentation of physiologic dependence.

The rule also includes requirements that OTPs and accreditation organizations disclose information. For example, 42 CFR 8.12(e)(1) requires that a physician explain the facts concerning the use of opioid drug treatment to each patient. This type of disclosure is considered to be consistent with the common medical practice and is not considered an additional burden. Further, the rule requires, under section 8.4(i)(1) that accreditation organizations shall make public their fee structure; this type of disclosure is standard business practice and is not considered a burden.

A number of changes have been made to the forms. Forms have been reworded for clarification, updated with current SAMHSA mailing and web-submission information, and a few additional fields have been provided for clarity and for providers to best explain their services (*e.g.,* expanding the former global patient census in the SMA–162 to request patient census by drug type—methadone, buprenorphine, naltrexone, or other) and the needs of their patients (*e.g.,* including urinalysis results on the SMA–168 and adding "weather crisis" as a standard option for physician justification of the requested exception). Amendments also include the removal of information pertaining to faxing the forms to SAMHSA, as this is no longer an acceptable form of submission. The burden hours have increased slightly (by 28% or approximately 639 hours) due to an increase in the number of facilities accredited and certified by SAMHSA since the previous submissions of these forms. The forms are available online with a unique feature for both the SMA–162 and SMA–168 that pre-populates certain information within the form. This in turn reduces the program's time spent filling out the forms as well as the staff time spent on processing it.

The tables that follow summarize the annual reporting burden associated with the regulation, including burden associated with the forms.

ESTIMATED ANNUAL REPORTING REQUIREMENT BURDEN FOR ACCREDITATION BODIES

42 CFR Citation	Purpose	Number of respondents	Responses/ respondent	Total responses	Hours/ response	Total hours
8.3(b)(1–11)	Initial approval (SMA–163)	1	1	1	6.00	6.00
8.3(c)	Renewal of approval (SMA–163)	2	1	2	1.00	2.00
8.3(e)	Relinquishment notification	1	1	1	0.50	0.50
8.3(f)(2)	Non-renewal notification to accredited OTPs.	1	90	90	0.10	9.00
8.4(b)(1)(ii)	Notification to SAMHSA for seriously noncompliant OTPs.	2	2	4	1.00	4.00
8.4(b)(1)(iii)	Notification to OTP for serious noncompliance.	2	10	20	1.00	20.00
8.4(d)(1)	General documents and information to SAMHSA upon request.	6	5	30	0.50	15.00
8.4(d)(2)	Accreditation survey to SAMHSA upon request.	6	75	450	0.02	9.00
8.4(d)(3)	List of surveys, surveyors to SAMHSA upon request.	6	6	36	0.20	7.20
8.4(d)(4)	Report of less than full accreditation to SAMHSA.	6	5	30	0.50	15.00
8.4(d)(5)	Summaries of Inspections	6	50	300	0.50	150.00
8.4(e)	Notifications of Complaints	12	6	72	0.50	36.00
8.6(a)(2) and (b)(3).	Revocation notification to Accredited OTPs.	1	185	185	0.30	55.50
8.6(b)	Submission of 90-day corrective plan to SAMHSA.	1	1	1	10.00	10.00
8.6(b)(1)	Notification to accredited OTPs of Probationary Status.	1	185	185	0.30	55.50
Subtotal		54		1,407		394.70

ESTIMATED ANNUAL REPORTING REQUIREMENT BURDEN FOR OPIOID TREATMENT PROGRAMS

42 CFR Citation	Purpose	Number of respondents	Responses/ respondent	Total responses	Hours/ response	Total hours
8.11(b)	Renewal of approval (SMA–162)	386	1	386	0.15	57.90
8.11(b)	Relocation of Program (SMA–162)	35	1	35	1.17	40.95
8.11(e)(1)	Application for provisional certification	42	1	42	1.00	42.00
8.11(e)(2)	Application for extension of provisional certification.	30	1	30	0.25	7.50
8.11(f)(5)	Notification of sponsor or medical director change (SMA–162).	60	1	60	0.10	6.00
8.11(g)(2)	Documentation to SAMHSA for interim maintenance.	1	1	1	1.00	1.00
8.11(h)	Request to SAMHSA for Exemption from 8.11 and 8.12 (including SMA–168).	1,325	25	33,125	0.07	2,318.75
8.11(i)(1)	Notification to SAMHSA Before Establishing Medication Units (SMA–162).	10	1	10	0.25	2.50
8.12(j)(2)	Notification to State Health Officer When Patient Begins Interim Maintenance.	1	20	20	0.33	6.60
8.24	Contents of Appellant Request for Review of Suspension.	2	1	2	0.25	.50
8.25(a)	Informal Review Request	2	1	2	1.00	2.00
8.26(a)	Appellant's Review File and Written Statement.	2	1	2	5.00	10.00
8.28(a)	Appellant's Request for Expedited Review.	2	1	2	1.00	2.00
8.28(c)	Appellant Review File and Written Statement.	2	1	2	5.00	10.00
Subtotal		1,900		33,719		2,507.70
Total		1,954		35,126		2,902.40

Written comments and recommendations concerning the proposed information collection should be sent by July 21, 2016 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2016–14586 Filed 6–20–16; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Monitoring of the National Suicide Prevention Lifeline (OMB No. 0930–0274) Revision

The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Mental Health Services (CMHS) is requesting approval for the revision of data collection associated with the previously-approved Monitoring of the National Suicide Prevention Lifeline (OMB No. 0930–0274; Expiration, July 31, 2016). The current request will continue previously-cleared efforts to evaluate process and impacts of follow-up services provided to suicidal individuals through the National Suicide Prevention Lifeline Crisis Center Follow-Up (NSPL Follow-Up) program.

The NSPL, or Lifeline, is SAMHSA's 24-hour crisis hotline (1–800–273–TALK [8255]) that serves as a central switchboard, seamlessly connecting callers from anywhere in the U.S. to the closest of its 165 crisis centers within the Lifeline network. Since its inception, the Lifeline has helped more than 6 million people. In 2008, SAMHSA launched the NSPL Follow-up program and began awarding cooperative agreements to crisis centers in the Lifeline network to reconnect with suicidal callers to offer emotional support and ensure they followed up with referrals to treatment. In 2013, the program was expanded to include crisis center follow-up with any suicidal individual referred from a partnering emergency department (ED) or inpatient hospital.

While previous evaluations of the NSPL demonstrated that suicidal callers experienced a reduction in hopelessness and suicidal intent after contacting the Lifeline, 43% of suicidal callers participating in follow-up assessments reported some recurrence of suicidality (*e.g.,* ideation, plan, or attempt) since their crisis call (Gould et al., 2007). Even so, only about 35% of suicidal callers set up an appointment and even fewer had been seen by the behavioral health care system to which they were referred (Gould et al., 2007; Kalafat et al., 2007). Similarly, while several randomized, controlled trials have demonstrated that following up by telephone or letter with patients discharged from inpatient or ED settings can reduce rates of repeat suicide attempts (Vaiva et al., 2006), as well as completions (Fleischman et al., 2008; Motto & Bostrom, 2001), suicidal individuals discharged from EDs rarely link to ongoing care. As many as 70% of suicide attempters either never attend their first appointment or drop out of treatment after a few sessions (Knesper et al., 2010). Thus, it is imperative that EDs and inpatient settings link these individuals to follow-up care.

SAMHSA is addressing this need through the NSPL Follow-Up program. The Monitoring of the NSPL will continue to assess whether the NSPL Follow-Up program achieves its intended goals. This revision of the Monitoring of the NSPL represents SAMHSA's desire to expand this process and impacts evaluation to assess follow-up with clients referred to the Lifeline from partnering inpatient hospitals and EDs and continue to improve the methods and standards of service delivery to suicidal individuals receiving crisis center services. This effort will build on information collected through previous and ongoing NSPL evaluations; expand our understanding of the outcomes associated with the NSPL Follow-Up program; and continue to contribute to the evidence base.

This revision requests approval for the removal of one previously-approved instrument and the continuation and renaming of five previously-approved activities. Six crisis centers funded through the NSPL Follow-Up program in FY 2016 will participate in this effort.

Instrument Removal

Due to the completion of the motivational interviewing/safety planning (MI/SP) training and the fulfillment of data collection goals, the currently-approved MI/SP Counselor Attitudes Questionnaire and its associated burden will be removed.

Instrument and Consent Revisions

Each of the five instruments and consents associated with the Monitoring of the NSPL was previously approved by OMB (No. 0930–0274; Expiration, July 31, 2016). Revisions include the following: (1) The term "caller" will be replaced with "client" to reflect the change in respondent type to clients referred from partnering EDs and inpatient hospitals rather than callers, and (2) MI/SP will be removed from the titles of all instruments and consents. No other changes are being made.

- The MI/SP Caller Follow-up Interview will be renamed "Client Follow-up Interview."
- The MI/SP Caller Initial Script will be renamed "Client Initial Script."
- The MI/SP Caller Follow-up Consent Script will be renamed "Client Follow-up Consent Script."
- The MI/SP Counselor Follow-up Questionnaire will be renamed "Counselor Follow-up Questionnaire."
- The MI/SP Counselor Consent will be renamed "Counselor Consent."

The estimated response burden to collect this information associated with the Monitoring of the NSPL annualized over the requested 3-year approval period is presented below:

ESTIMATED ANNUALIZED BURDEN

Activity	Number of espondents	Responses per respondent	Total number of responses	Burden per response (hours)	Annual burden (hours) *
Client Initial Script	217	1	217	.08	17
Client Initial Script Refusals	53	1	53	.02	1
Client Follow-up Consent Script	161	1	161	.17	27
Client Follow-up Consent Script Refusals	10	1	10	.03	1
Client Follow-up Interview	160	1	160	.67	107
Client Follow-up Interview Refusals	1	1	1	.25	1
Counselor Consent	42	1	42	.08	3
Counselor Follow-up Questionnaire	42	15	630	.17	107
Total	685		1,274		264

* Rounded to the nearest whole number with 0 rounded to 1.

Written comments and recommendations concerning the proposed information collection should be sent by July 21, 2016 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2016–14588 Filed 6–20–16; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2016–0125]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0105

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collection of information: 1625–0105, Regulated Navigation Area; Reporting Requirements for Barges Loaded with Certain Dangerous Cargoes, Inland Rivers, Eighth Coast Guard District and the Illinois Waterway, Ninth Coast Guard District. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before July 21, 2016.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2016–0125] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) Email: OIRA-submission@omb.eop.gov.

(2) Mail: OIRA, 725 17th Street NW., Washington, DC 20503, attention Desk Officer for the Coast Guard.

(3) Fax: 202–395–6566. To ensure your comments are received in a timely manner, mark the fax, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection. The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2016–0125], and must be received by July 21, 2016.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov*, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0105.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (81 FR 15325, March 22, 2016) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Regulated Navigation Area; Reporting Requirements for Barges Loaded with Certain Dangerous Cargoes, Inland Rivers, Eighth Coast Guard District and the Illinois Waterway, Ninth Coast Guard District.

Omb Control Number: 1625–0105.

Summary: The Coast Guard requires position and intended movement reporting, and fleeting operations reporting, from barges carrying certain dangerous cargoes (CDCs) in the inland rivers within the Eighth and Ninth Coast Guard Districts.

Need: This information is used to ensure port safety and security and to ensure the uninterrupted flow of commerce.

Forms: None.

Respondents: Owners, agents, masters, towing vessel operators, or persons in charge of barges loaded with CDCs or having CDC residue operating on the inland rivers located within the Eighth and Ninth Coast Guard Districts.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 1,901 hours to 4 hours a year due to a decrease in the estimated number of responses. The change in responses is due to recent District 8 and District 9 administrative changes to the reporting requirements.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: June 16, 2016.

Marilyn Scott-Perez,

Acting Deputy Chief Information Officer, U.S. Coast Guard.

[FR Doc. 2016–14633 Filed 6–20–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–39]

30-Day Notice of Proposed Information Collection: Requisition for Disbursements of Sections 202 & 811 Capital Advance/Loan Funds

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* July 21, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on January 27, 2016 at 81 FR 4637.

A. Overview of Information Collection

Title of Information Collection: Requisition for Disbursements of Sections 202 & 811 Capital Advance/Loan Funds.

OMB Approval Number: 2502–0187.

Type of Request: Extension of currently approved collection.

Form Number: HUD–92403–CA and HUD–92403–EH.

Description of the need for the information and proposed use: Owner entities submit requisitions to HUD during construction to obtain section 202/811 Capital Advance/Loan Funds. This collection helps to identify the owner, project, type of disbursement, items covered, name of the depository, and account number.

Respondents (*i.e.* affected public): Affected public.

Estimated Number of Respondents: 112.

Estimated Number of Responses: 224.

Frequency of Response: 4.

Average Hours per Response: 1.

Total Estimated Burden: 112.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: June 15, 2016.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2016–14644 Filed 6–20–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5913–N–11]

60-Day Notice of Proposed Information Collection: Mortgage Insurance Termination; Application for Premium Refund or Distributive Share Payment

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* August 22, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Pauline G. Devore, Office of Single Family Insurance Operations Division, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email or telephone 202–402–8311. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in section A.

A. Overview of Information Collection

Title of Information Collection: Mortgage Insurance Termination; Application for Premium Refund or Distributive Share Payment.

OMB Approval Number: 2502–0414.

Type of Request: Extension

Information Collection Number: HUD–27050–A and B.

Description of the need for the information and proposed use: The information collection for Mortgage Insurance Termination is used by servicing mortgagees to comply with HUD requirements for reporting the termination of FHA mortgage insurance. This information collection is used whenever FHA mortgage insurance is terminated and no claim for insurance benefits will be filed. Under the streamline III program, the information can be used to directly pay eligible homeowners.

Respondents: Individuals or households

Estimated Number of Respondents: 56,000.

Estimated Number of Responses: 725,000.

Frequency of Response: Varies.

Average Hours per Response: 1.0.

Total Estimated Burdens: 66,500.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: June 15, 2016.

Janet M. Golrick,

Associate General Deputy Assistant Secretary for Housing, Associate Deputy Federal Housing Commissioner.

[FR Doc. 2016–14646 Filed 6–20–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5913–N–13]

60-Day Notice of Proposed Information Collection: Application and Recertification Packages for Approval of Nonprofit Organizations in FHA Activities

AGENCY: Office of the Assistant Secretary for Housing- Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* August 22, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Kevin L. Stevens, Director of the Office of Single Family's Home Mortgage Insurance Division at *Kevin.L.Stevens@hud.gov* or at (202) 402–4317 or Mary Jo Sullivan, Housing Program Officer, Home Mortgage Insurance Division at *maryjo.sullivan@hud.gov* or at (202) 402–2186. QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Application and Recertification Packages for Approval of Nonprofit Organizations in FHA Activities.

OMB Approval Number: 2502–0540.

Type of Request: Extension.

Form Number: N/A.

Description of the need for the information and proposed use: In order for nonprofit organizations to participate in FHA Nonprofit and Government Entity Programs they must submit an application and be approved by FHA. The FHA Nonprofit programs include: HUD Homes where a nonprofit may be able to buy a FHA REO property at the discount; FHA Mortgagor where a nonprofit can qualify for an FHA insured loan; and Secondary Financing where a nonprofit can provide financial assistance to low to-moderate- income family in the purchase of a home. Once a Nonprofit submits and application that is approved, the Nonprofit is placed on the FHA Nonprofit Organization Roster. The Nonprofit must recertify every two years and maintain documentation for reporting purposes and to permit FHA to monitor their activities to ensure compliance with program requirements.

Respondents (*i.e.* affected public): Nonprofit Organizations.

Estimated Number of Respondents: 395.

Estimated Number of Responses: 731.

Frequency of Response: 1 to 4.

Average Hours per Response: 24.25.

Total Estimated Burdens: 8692.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: June 15, 2016.

Janet M. Golrick,

Associate General Deputy Assistant Secretary for Housing Associate Deputy Federal Housing Commissioner.

[FR Doc. 2016–14647 Filed 6–20–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2016–N106; FXES11130300000–167–FF03E00000]

Endangered and Threatened Wildlife and Plants; Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications for a permit to conduct activities intended to enhance the survival of endangered or threatened species. Federal law prohibits certain activities with endangered species unless a permit is obtained.

DATES: We must receive any written comments on or before July 21, 2016.

ADDRESSES: Send written comments by U.S. mail to the Regional Director, Attn: Carlita Payne, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458; or by electronic mail to *permitsR3ES@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Carlita Payne, (612) 713–5343.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*), prohibits certain activities with endangered and threatened species unless the activities are specifically authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A permit granted by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of propagation or survival, or interstate commerce (the latter only in the event that it facilitates scientific purposes or enhancement of propagation or survival). Our regulations implementing section 10(a)(1)(A) of the ESA for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies and the public to comment on the following applications. Please refer to the permit number when you submit comments. Documents and other information the applicants have submitted with the applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit Applications

Permit Application Number: TE06820A

Applicant: Russell Benedict, Central College, Pella, IA

The applicant requests a permit renewal, with amendment to take (capture and release, and radio-tag) Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), and northern long-eared bat (*Myotis septentrionalis*) for presence/absence surveys, studies to document habitat use, and population monitoring in the States of Illinois, Iowa, Missouri, and Nebraska. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE88224B

Applicant: Joseph Snavely IV, Chambersburg, PA

The applicant requests a permit to take (capture and release) Higgins eye (pearlymussel) (*Lampsilis higginsii*), snuffbox mussel (*Epioblasma triquetra*), sheepnose mussel (*Plethobasus cyphyus*), spectaclecase (mussel) (*Cumberlandia monodonta*), purple cat's paw pearlymussel (*Epioblasma obliquata obliquata*), pink mucket (pearlymussel) (*Lampsilis abrupta*), clubshell (*Pleurobema clava*), fanshell (*Cyprogenia stegaria*), fat pocketbook (*Potamilus capax*), rabbitsfoot (*Quadrula cylindrica cylindrica*), rayed bean (*Villosa fabalis*), scaleshell mussel (*Leptodea leptodon*), winged mapleleaf (*Quadrula fragosa*), and northern riffleshell (*Epioblasma torulosa rangiana*), for presence/absence surveys, studies to document habitat use, and population monitoring in the States of Illinois, Indiana, Iowa, Minnesota, Missouri, Ohio, and Wisconsin. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE88353B

Applicant: Jesse De La Cruz, Fairmont, WV

The applicant requests a permit to take (capture and release, trap, and radio-tag) Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), northern long-eared bat (*Myotis septentrionalis*), and Virginia big-eared bat (*Corynorhinus townsendii virginianus*) for presence/absence surveys, studies to document habitat use, and population monitoring in the States of Illinois, Indiana, Iowa, Kentucky, Michigan, North Carolina, Ohio, Virginia, and West Virginia. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE113009

Applicant: Steven Ahlstedt, Norris, TN

The applicant requests a permit renewal to take (capture and release) clubshell (*Pleurobema clava*), Cumberland bean (pearlymussel) (*Villosa trabalis*), Cumberland elktoe (*Alasmidonta atropurpurea*), Cumberlandian combshell (*Epioblasma brevidens*), dromedary pearlymussel (*Dromus dromas*), fluted kidneyshell (*Ptychobranchus subtentum*), littlewing pearlymussel (*Pegias fabula*), oyster mussel (*Epioblasma capsaeformis*), purple cat's paw pearlymussel (*Epioblasma obliquata obliquata*), rayed bean (*Villosa fabalis*), spectaclecase (mussel) (*Cumberlandia monodonta*), tan riffleshell (*Epioblasma florentina walkeri = E. walkeri*), and white catspaw (pearlymussel) (*Epioblasma obliquata perobliqua*) for presence/absence surveys, studies to document habitat use, and population monitoring in the States of Indiana, Ohio, and Kentucky. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE35521B

Applicant: Western Ecosystems Technology, Inc., Cheyenne, WY

The applicant requests a permit renewal to take (capture and release) 41 federally listed mussel species and 12 federally listed fish species for presence/absence surveys, studies to document habitat use, and population monitoring in the States of Alabama, Colorado, Georgia, Illinois, Indiana, Kansas, Kentucky, Minnesota, Mississippi, Missouri, Montana, Nebraska, New York, North Carolina, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and Wyoming. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE86150B

Applicant: Geoffrey Palmer, Liberty Township, OH

The applicant requests a permit to take (capture and release, trap, and radio-tag) Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), and northern long-eared bat (*Myotis septentrionalis*) for presence/absence surveys, studies to document habitat use, and population monitoring throughout these species' ranges. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE94330A

Applicant: Robert Krebs, Cleveland, OH

The applicant requests a permit renewal, with amendment to take (capture and release) pink mucket (pearlymussel) (*Lampsilis abrupta*), northern riffleshell (*Epioblasma torulosa rangiana*), purple cat's paw pearlymussel (*Epioblasma obliquata obliquata*), white catspaw (pearlymussel) (*Epioblasma obliquata perobliqua*), sheepnose mussel (*Plethobasus cyphyus*), orangefoot pimpleback (pearlymussel) (*Plethobasus cooperianus*), clubshell (*Pleurobema clava*), fanshell (*Cyprogenia stegaria*), rabbitsfoot (*Quadrula cylindrica cylindrica*), and rayed bean (*Villosa fabalis*), and to take (capture and release; temporary hold) snuffbox mussel (*Epioblasma triquetra*) for presence/absence surveys, studies to document habitat use, and population monitoring in the State of Ohio. Proposed activities are for research and enhancement of propagation and survival of the species in the wild.

Permit Application Number: TE60999A

Applicant: Levi Miller, Logan, OH

The applicant requests a permit amendment to take (capture and release, trap, and radio-tag) Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*) for presence/absence surveys, studies to document habitat use, and population monitoring in the States of Kentucky and Ohio. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE838715

Applicant: The Nature Conservancy, Ohio Operating Unit, Swanton, OH

The applicant requests a permit renewal to take (harass and kill through habitat management) Karner blue butterfly (*Lycaeides melissa samuelis*) at the Kitty Todd Nature Preserve, in Lucas County, Ohio. Proposed activities are for the conservation of the species through habitat management.

Permit Application Number: TE43541A

Applicant: Dr. Francesca Cuthbert, University of Minnesota, St. Paul, MN

The applicant requests a permit renewal, with amendment to take (capture and release; capture and rear) piping plover (*Charadrius melodus*) in the States of Illinois, Michigan, and Wisconsin. The research entails capture and marking of piping plovers, erecting nesting exclosures to improve nesting success, salvaging orphaned eggs and nestlings, and captive rearing and release. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE02365A

Applicant: Lynn Robbins, Missouri State University, Springfield, MO

The applicant requests a permit renewal, with amendment to take (capture and release, trap, and radio-tag) Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), northern long-eared bat (*Myotis septentrionalis*), and Ozark big-eared bat (*Corynorhinus townsendii ingens*) for presence/absence surveys, studies to document habitat use, and population monitoring throughout these species' ranges. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE182436

Applicant: Illinois Natural History Survey, Champaign, IL

The applicant requests a permit to take (capture and release, trap, and radio-tag) Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), and northern long-eared bat (*Myotis septentrionalis*) for presence/absence surveys, studies to document habitat use, and population monitoring in the States of Illinois and Missouri. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE98057A

Applicant: Lynda Mills, Whitley, KY

The applicant requests a permit renewal, with amendment to take (capture and release, trap, and radio-tag) Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), and northern long-eared bat (*Myotis septentrionalis*) for presence/absence surveys, studies to document habitat use, and population monitoring in the State of Missouri. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE98673B

Applicant: Jason Layne, Spring Hill, KS

The applicant requests a permit to take (capture and release, handle, and radio-tag) Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), northern long-eared bat (*Myotis septentrionalis*), Virginia big-eared bat (*Corynorhinus townsendii virginianus*), and Ozark big-eared bat (*Corynorhinus townsendii ingens*) for presence/absence surveys, studies to document habitat use, and population monitoring throughout these species' ranges. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE27915B

Applicant: Wildlife Specialists, LLC, Wellsboro, PA

The applicant requests a permit renewal, with amendment to take (capture and release, handle, and radio-tag) Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and Virginia big-eared bat (*Corynorhinus townsendii virginianus*) for presence/absence surveys, studies to document habitat use, and population monitoring throughout these species' ranges. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE94321A

Applicant: Brian O'Neill, Oak Park, IL

The applicant requests a permit renewal to take (capture and release) 28 federally listed mussel species and 7 federally listed fish species for presence/absence surveys, studies to document habitat use, and population monitoring in the States of Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, Pennsylvania, West Virginia, and Wisconsin. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE98674B

Applicant: Cheyenne Gerdes, Springfield, MO

The applicant requests a permit to take (capture and release, handle, trap, and radio-tag) Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), and northern long-eared bat (*Myotis septentrionalis*) for presence/absence surveys, studies to document habitat use, and population monitoring throughout these species' ranges. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE99051B

Applicant: Goniela Iskali, Bloomington, IN

The applicant requests a permit to take (capture and release, handle, trap and radio-tag) Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*) for presence/absence surveys, studies to document habitat use, and population monitoring throughout these species' ranges. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE99052B

Applicant: Eko Consulting LLC, Cobden, IL

The applicant requests a permit to take (capture and release, handle, and radio-tag) Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), and northern long-eared bat (*Myotis septentrionalis*) for presence/absence surveys, studies to document habitat use, and population monitoring throughout these species' ranges. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE206781

Applicant: Ecological Specialists, Inc., O'Fallon, MO

The applicant requests a permit amendment to take (capture and release, capture and relocate) 58 federally listed mussel species for presence/absence surveys, studies to document habitat use, and population monitoring throughout these species' ranges. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE99055B

Applicant: Benjamin Smith, Springfield, MO

The applicant requests a permit to take (capture and release, handle, trap, and radio-tag) Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), and northern long-eared bat (*Myotis septentrionalis*) for presence/absence surveys, studies to document habitat use, and population monitoring throughout these species' ranges. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE99056B

Applicant: Marion Wells, Miamisburg, OH

The applicant requests a permit to take (capture and release, capture and relocate, and salvage) pink mucket (pearlymussel) (*Lampsilis abrupta*), northern riffleshell (*Epioblasma torulosa rangiana*), purple cat's paw pearlymussel (*Epioblasma obliquata obliquata*), white catspaw (pearlymussel) (*Epioblasma obliquata perobliqua*), sheepnose mussel (*Plethobasus cyphyus*), clubshell (*Pleurobema clava*), fanshell (*Cyprogenia stegaria*), snuffbox mussel (*Epioblasma triquetra*), and rayed bean (*Villosa fabalis*) for presence/absence surveys, studies to document habitat use, and population monitoring throughout the State of Ohio. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE99058B

Applicant: Joshua Flinn, Independence, MO

The applicant requests a permit to take (capture and release, handle, and radio-tag) Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), northern long-eared bat (*Myotis septentrionalis*), Virginia big-eared bat (*Corynorhinus townsendii virginianus*), and Ozark big-eared bat (*Corynorhinus townsendii ingens*) for presence/absence surveys, studies to document habitat use, and population monitoring throughout these species' ranges. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE99055B

Applicant: University of Wisconsin-Madison, Madison, WI

The applicant requests a permit to take (capture and release; capture and rear) Kirtland's warbler (*Setophaga kirtlandii*) in the State of Wisconsin. The research entails capture and release, attaching radio-transmitters, tracking fledgling movements, and recording nesting activities and nest predation. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE839763

Applicant: John Whitaker, Jr., Terre Haute, IN

The applicant requests a permit renewal, with amendment to take (capture and release, handle, trap, and tag) Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), and northern long-eared bat (*Myotis septentrionalis*) for presence/absence surveys, studies to document habitat use, and population monitoring throughout these species' ranges. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE207523

Applicant: The Nature Conservancy—Michigan Chapter, Lansing, MI

The applicant requests a permit renewal to take (harass/harm through habitat management; census and monitoring) Mitchell's satyr butterfly (*Neonympha mitchellii mitchellii*), Karner blue butterfly (*Lycaeides melissa samuelis*), and Pitcher's thistle (*Cirsium pitcheri*) within the State of Michigan. Proposed activities are for the conservation of the species through habitat management.

Permit Application Number: TE38842A

Applicant: Sanders Environmental Inc., Bellefonte, PA

The applicant requests a permit amendment to take (capture and release, handle, and radio-tag) Indiana bat (*Myotis sodalis*) and northern long-eared bat (*Myotis septentrionalis*) for presence/absence surveys, studies to document habitat use, and population monitoring in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, Wisconsin, Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

Permit Application Number: TE06778A

Applicant: Shawnee National Forest, Vienna, IL

The applicant requests a permit renewal to take (capture and release, handle, trap and radio-tag) Indiana bat (*Myotis sodalis*), gray bat (*Myotis grisescens*), and northern long-eared bat (*Myotis septentrionalis*) for presence/absence surveys, studies to document habitat use, and population monitoring in the States of Illinois, Indiana, Missouri, and Ohio. Proposed activities are for the recovery and enhancement of survival of the species in the wild.

National Environmental Policy Act

The proposed activities in the requested permits qualify as categorical exclusions under the National Environmental Policy Act, as provided by Department of the Interior implementing regulations in part 46 of title 43 of the CFR (43 CFR 46.205, 46.210, and 46.215).

Public Availability of Comments

We seek public review and comments on these permit applications. Please refer to the permit number when you submit comments. Comments and materials we receive in response to this notice are available for public inspection, by appointment, during normal business hours at the address listed above in **ADDRESSES**.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*).

Dated: June 15, 2016.

Sean Marsan,

Acting Assistant Regional Director, Ecological Services, Midwest Region.

[FR Doc. 2016–14622 Filed 6–20–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2016–N068; FVES59420300000F2–14X–FF03E00000]

Endangered and Threatened Wildlife and Plants; Receipt of Application for Renewal of Incidental Take Permit; Enbridge Pipelines (Lakehead) LLC

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service, USFWS), have received an application from Enbridge Pipelines (Lakehead) L.L.C. (applicant) to renew an incidental take permit (ITP) under the Endangered Species Act of 1973 for incidental take of the federally endangered Hine's emerald dragonfly. The applicant has requested renewal without change of the ITP, which expired on December 31, 2015. We invite comments on the applicant's application, including written data, views, or arguments with respect to the application.

DATES: To ensure consideration, please send your written comments on or before July 21, 2016.

ADDRESSES: Send written comments by one of the following methods:

- *U.S. mail:* Field Supervisor, Attn: Jack Dingledine, U.S. Fish and Wildlife Service, 2651 Coolidge Road East, Ste. 101, Lansing, MI 48823.
- *Email: Jack_Dingledine@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Jack Dingledine, by mail at the East Lansing Field Office (see **ADDRESSES**); by telephone (517–351–6320), or by facsimile (517–351–1443). If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service, USFWS), have received an application from Enbridge Pipelines (Lakehead) L.L.C. (applicant) to renew an incidental take permit (ITP), TE03689B–1, under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*; ESA). In 2013, the applicant received an ITP for incidental take of the federally endangered Hine's emerald dragonfly (*Somatochlora hineana*) (78 FR 15374; March 11, 2013). That permit expired on December 31, 2015. As part of the initial permit process, the applicant prepared a low-effect habitat conservation plan (HCP) to cover activities associated with pipeline maintenance work in Garfield Township, Mackinac County, Michigan. The pipeline inspection and maintenance have been completed per the HCP. The mitigation measures required in the HCP have been met; however, performance and success criteria for restoration of the site have been only partially met. The applicant has requested renewal of the ITP, without change, to continue monitoring of the restoration and implement any remedial measures, if necessary, until December 31, 2017. We invite comments on the applicant's application for renewal.

Background

On December 12, 2013, Enbridge Pipelines (Lakehead) L.L.C. (Enbridge) received an ITP for take of the Hine's Emerald Dragonfly (*Somatochlora hineana*) that may occur during inspection and repair of three sections of Enbridge's Line 5 (30-inch diameter) pipeline in Garfield Township, Mackinac County. The permit was amended on January 25, 2015, to include a fourth section of pipeline within the original HCP boundaries (2.64 acres). The project is located approximately 1 mile east of the City of Engadine, Michigan, along the Enbridge right-of-way (ROW).

Applicant's Proposed Action

Enbridge has completed the pipeline inspection and maintenance and all required mitigation measures, per the HCP. Enbridge has also conducted annual monitoring and submitted annual reports. The monitoring indicates that the performance and success criteria for restoration of the site have been only partially met. Enbridge requests renewal of the ITP to continue monitoring of the restoration and implement any remedial measures, if necessary, until December 31, 2017.

Reviewing Documents and Submitting Comments

Please refer to permit number TE03689B–1 when submitting comments. The permit application and supporting documents may be obtained on the Internet at *http://www.fws.gov/midwest/endangered/permits/hcp/r3hcps.html*. Persons without access to the Internet may obtain copies of the permit application by contacting the U.S. Fish and Wildlife Service (**ADDRESSES**). The permit application and supporting documents will also be available for public inspection, by appointment, during normal business hours (8 a.m. to 4 p.m.) at the USFWS Lansing office (see **ADDRESSES**). Written comments will be accepted as described under **ADDRESSES**.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that the entire comment, including your personal identifying information, may be made available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Next Steps

We will evaluate the permit application, including comments we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will also evaluate whether renewal of the ITP would comply with section 7(a)(2) of the Act by conducting an intra-Service Section 7 consultation. We will use the results of our internal Service consultation, in combination with the above findings, in our final analysis to determine whether to renew the permit. If the requirements are met, we will renew the ITP. We will make the final permit decision no sooner than 30 days after the date of this notice.

Authority

We provide this notice under section 10 of the ESA (16 U.S.C. 1531 *et seq.*), section 668a of the Eagle Act (16 U.S.C. 668a–668d), NEPA (42 U.S.C. 4321 *et seq.*), and NEPA regulations (40 CFR 1501.7, 1506.5, 1506.6 and 1508.22).

Dated: June 15, 2016.

Sean Marsan,

Acting Assistant Regional Director, Ecological Services, Midwest Region.

[FR Doc. 2016–14623 Filed 6–20–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX16GA01GD0SH00]

White House National Science and Technology Council; Subcommittee on Disaster Reduction; U.S. National Platform for the United Nations Office for Disaster Risk Reduction

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of listening session for the U.S. National Platform.

SUMMARY: Pursuant to Public Law 106–148, the U.S. National Platform for the United Nations Office for Disaster Risk Reduction (UNISDR)—facilitated by the White House National Science and Technology Council (NSTC) Subcommittee on Disaster Reduction (SDR), which is co-chaired by the U.S. Geological Survey—plans to host a listening session at the 41st Natural Hazards Center Annual Workshop (Interlocken A, Omni Interlocken Resort, Broomfield, Colorado) to hear multi-sectoral perspectives from non-governmental organizations, academic institutions, local and state governments, and private corporations on the implementation of targets and indicators for UNISDR's *Sendai Framework for Disaster Risk Reduction 2015–2030.*

DATES: Sunday, July 10, 2016, from 7:00 p.m.–9:00 p.m. Mountain Daylight Time.

FOR FURTHER INFORMATION CONTACT: For further information about the event or to RSVP to attend, please contact David Applegate, U.S. Geological Survey, Mail Stop 111, National Center, Reston, Virginia 20192, 703–648–6600 or Bret Schothorst, NSTC Subcommittee on Disaster Reduction Executive Secretary, 703–388–0312.

SUPPLEMENTARY INFORMATION: Per the Federal Advisory Committee Act, the U.S. National Platform for UNISDR must advertise any formal listening session or consultation with outside groups in the **Federal Register**. This event is free and open to the public.

James D.R. Applegate,

Co-Chair, Subcommittee on Disaster Reduction, Associate Director for Natural Hazards, U.S. Geological Survey.

[FR Doc. 2016–14606 Filed 6–20–16; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[16XL LLIDB00100 LF1000000.HT0000 LXSIOVHD0000 241A 4500087305]

Notice of Closure on Public Lands in Boise County, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closure.

SUMMARY: Notice is hereby given that the Skinny Dipper Hot Springs, which is located on public lands administered by the Four Rivers Field Office, Bureau of Land Management (BLM), is closed to all uses.

DATES: The Skinny Dipper Hot Springs closure will be in effect on the date this notice is published in the **Federal Register** and will remain in effect for five years or until rescinded or modified by the authorized officer or designated Federal officer, whichever is earlier.

FOR FURTHER INFORMATION CONTACT: Tate Fischer, Four Rivers Field Manager, 3948 Development Avenue, Boise, Idaho 83705, email *tfischer@blm.gov*, or phone (208) 384–3300. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact Mr. Fischer. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with Mr. Fischer. You will receive a reply during normal hours.

SUPPLEMENTARY INFORMATION: The closure affects public lands including and surrounding Skinny Dipper Hot Springs, located approximately 4 miles east of Banks, Idaho. The affected public lands are:

> all public land north of Idaho State Highway 17, also known as the Banks-Lowman Highway, in Lot 3; Section 25, T. 9 N., R. 3 E., Boise Meridian, Boise County, Idaho, containing approximately 41.58 acres.

The closure is necessary to allow the BLM to rehabilitate and restore natural conditions damaged by unauthorized use and development around the hot springs.

The BLM will post closure signs at main access points to the closed area and the area used for parking located adjacent to the highway. This closure order will be posted in the Boise District BLM office. Maps of the affected area and other documents associated with this closure are available at 3948 Development Avenue, Boise, Idaho 83705 and online at *http://www.blm.gov/id*.

Exemptions: The following persons are exempt from this order: Federal, State, and local officers and employees in the performance of their official duties; members of organized rescue or fire-fighting forces in the performance of their official duties; and persons with written authorization from the BLM's Four Rivers Field Office.

Enforcement: Any person who violates this closure may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8560.0–7, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of Idaho law.

Authority: 43 CFR 8364.1.

Tate Fischer,
BLM Four Rivers Field Manager.

[FR Doc. 2016–14575 Filed 6–20–16; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–CACO–21002; PPWONRADE PMP00IE05.YP0000]

Final Environmental Impact Statement for the Herring River Restoration Project, Cape Cod National Seashore, Massachusetts

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability.

SUMMARY: The National Park Service (NPS) announces the availability of a Final Environmental Impact Statement (FEIS) for the Herring River Restoration Project in Cape Cod National Seashore, Massachusetts. The FEIS provides a systematic analysis of alternative approaches to restore the Herring River estuary to a more productive and natural condition after a century of diking and draining.

DATES: The NPS will execute a Record of Decision not sooner than 30 days after the date of publication of the NOA in the **Federal Register** by the Environmental Protection Agency.

ADDRESSES: Electronic versions of the complete document are available online at *http://www.nps.gov/caco/* and *http://parkplanning.nps.gov/herring_river.*

FOR FURTHER INFORMATION CONTACT: George E. Price, Jr., Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02267; telephone (508) 771–2144.

SUPPLEMENTARY INFORMATION: The Herring River Restoration Project is a joint project of the Cape Cod National Seashore, the Town of Wellfleet, the Town of Truro, the Massachusetts Division of Ecological Restoration, the U.S. Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and the Natural Resource Conservation Service. The purpose of this project is to restore self-sustaining coastal habitats on a large portion of the 1,100-acre Herring River estuary in Wellfleet and Truro, Massachusetts, where wetland resources and natural ecosystem functions have been severely damaged by 100 years of tidal restriction and salt marsh drainage. The goal is to balance tidal restoration objectives with flood control by allowing the highest tide range practicable while also ensuring flood proofing and protection of vulnerable properties.

The Herring River is the largest estuary on outer Cape Cod, encompassing more than 1,100 acres of degraded wetlands in a complex network of five valleys: The Herring River, Mill Creek, Pole Dike Creek, Bound Brook, and Duck Harbor. The Chequessett Neck Road dike was built in 1908 at the mouth of the Herring River to restrict natural tidal flows. Ditches were constructed to drain the normally saturated flood plain soil. The once extensive salt marshes have been transformed into stands of invasive plants, shrubby thickets, and forests. The old salt marsh peat, deprived of the tides, has decomposed and compressed, sinking the surface of the flood plain as much as three feet. The decomposition of peat has released sulfuric acid that kills fish and other aquatic life, and low summertime dissolved oxygen has also harmed aquatic life.

The FEIS analyzes three action alternatives and the no action alternative, as described below:

Alternative A would leave in place the current tide control structure at Chequessett Neck Road and continue management of the estuary without restoration.

Alternative B would employ an adaptive management strategy to restore tides in the lower reach of the Herring River up to a maximum high tide of approximately six feet. At this tide level flood mitigation of sensitive properties can be achieved without a secondary dike at Mill Creek.

Alternative C would employ an adaptive management strategy to restore tides up to the maximum Chequessett Neck Road dike capacity (10 foot vertical tide gate opening) with a new dike at Mill Creek that blocks all tidal influence. This alternative would maximize restoration in all sub-basins except Mill Creek. Mill Creek would remain unrestored, but no new flood proofing measures would be needed in Mill Creek.

Alternative D would employ an adaptive management strategy to restore tides up to the maximum Chequessett Neck Road dike capacity (10 foot vertical tide gate opening) with a new dike at Mill Creek and Pole Dike Creek. Mill Creek and Pole Dike Creek tides would be controlled by these secondary structures to the maximum levels that can be achieved after flood proofing several low-lying properties. Tidal restoration would be maximized in all other sub-basins.

For Alternatives B and D, two options are considered for mitigating project impacts to the Chequessett Yacht & Country Club (CYCC) golf course, a private golf course in Mill Creek: (1) Raise low-lying fairways a minimum of two feet above proposed inundation levels, or (2) relocate low-lying fairways to an undeveloped upland area owned by CYCC.

Under all Action Alternatives, there is the potential for the restoration of natural tidal flow to result in impacts to private properties. Any such impacts would be addressed through mitigation measures such as raising or relocating affected buildings, driveways or wells, building berms to protect structures, and/or limiting water levels across entire sub-basins. The cost of these impact mitigation measures will be borne by the Project. Water surface elevations within any sub-basin will not be increased until the necessary impact mitigation is in place.

Alternative D, with the option to raise existing low-lying fairways a minimum of two feet above proposed inundation levels, has been identified as the NPS Preferred Alternative. This alternative best fulfills the restoration objectives of the project while mitigating adverse impacts to developed properties.

In response to agency and public comment, several aspects of the alternatives have been updated in chapter 2 of the FEIS. Key updates include adding a tide control structure at the Pole Dike Creek Road and refining options for preventing tidal flow impacts to High Toss Road. Also, design details have progressed on other key project components, including the proposed new Chequessett Neck Road dike and Mill Creek dikes. Relevant updates have been added to the alternatives description, including information about staging area locations and canoe/kayak access. Updates have also been made to key parts of Chapters 3 and 4, including a revised vegetation analysis that allows improved estimates of impacts to special status species habitat, updated information about newly-listed federal species (Northern Long-eared Bat and Red Knot), and dismissal of changes to FEMA flood insurance maps.

Authority: 42 U.S.C. 4321 *et seq.*

Dated: June 2, 2016.

Michael A. Caldwell,

Regional Director, National Park Service, Northeast Region.

[FR Doc. 2016–14570 Filed 6–20–16; 8:45 am]

BILLING CODE 4310–WV–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. U.S.-Chile FTA–103–029]

Probable Economic Effect of Certain Modifications to the U.S.-Chile FTA Rules of Origin

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and notice of opportunity to provide written comments.

SUMMARY: Following receipt on May 24, 2016, of a request from the U.S. Trade Representative (USTR), under authority delegated by the President and pursuant to section 103(a) of the United States-Chile Free Trade Agreement Implementation Act (the Act) (19 U.S.C. 3805 note), the Commission instituted investigation No. U.S.-Chile FTA–103–029, *Probable Economic Effect of Certain Modifications to the U.S.-Chile FTA Rules of Origin.*

DATES: July 11, 2016: Deadline for filing written submissions.

August 24, 2016: Transmittal of Commission report to USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://www.usitc.gov/secretary/edis.htm.*

FOR FURTHER INFORMATION CONTACT: Project leader Laura Rodriguez (202–205–3499 or *laura.rodriguez@usitc.gov*) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*https://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background: In his request letter (received May 24, 2016), the USTR stated that U.S. negotiators have recently reached agreement in principle with representatives of the government of Chile on modifications to the FTA rules of origin. He said that the proposed modifications are the result of determinations that U.S. and Chilean producers are unable to produce rayon filament yarns in commercial quantities in a timely manner. The USTR noted that section 202(o)(2)(B)(i) of the Act authorizes the President, subject to the consultation and layover requirements of section 103(a) of the Act, to proclaim such modifications to the rules of origin provisions as are necessary to implement an agreement with Chile pursuant to Article 3.20.5 of the Agreement. He noted that one of the requirements set out in section 103(a) of the Act is that the President obtain advice regarding the proposed action from the U.S. International Trade Commission.

In the request letter, the USTR asked that the Commission provide advice on the probable economic effect of the modifications on U.S. trade under the FTA, total U.S. trade, and on domestic producers of the affected articles. He asked that the Commission provide its advice at the earliest possible date but not later than three months of receipt of the request. He also asked that the Commission issue, as soon as possible thereafter, a public version of its report with any confidential business information deleted. The products identified in the proposal are certain woven fabrics of artificial filament yarn provided for in subheadings 5408.22–5408.23 of the U.S. Harmonized Tariff Schedule. The request letter and the proposed modification are available on the Commission's Web site at *https://www.usitc.gov/research_and_analysis/what_we_are_working_on.htm.* As requested, the Commission will provide its advice to USTR by August 24, 2016.

Written Submissions: No public hearing is planned. However, interested parties are invited to file written submissions. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., July 11, 2016. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 and the Commission's *Handbook on Filing Procedures* require that interested parties file documents *electronically* on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202–205–1802).

Confidential Business Information: Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information is clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission may include some or all of the confidential business information submitted in the course of this investigation in the report it sends to the USTR. Additionally, all information, including confidential business information, submitted in this investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel for cybersecurity purposes. The Commission will not otherwise disclose any confidential business information in a manner that would reveal the operations of the firm supplying the information.

Summaries of Written Submissions: The Commission intends to publish summaries of the positions of interested persons in an appendix to its report. Persons wishing to have a summary of their position included in the appendix should include a summary with their written submission. The summary may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and should not include any confidential business information. The summary will be published as provided if it meets these requirements and is germane to the subject matter of the investigation. In the appendix the Commission will identify the name of the organization furnishing the summary, and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

Issued: June 16, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–14618 Filed 6–20–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–966]

Certain Silicon-on-Insulator Wafers; Commission Determination Not To Review an Initial Determination Granting an Unopposed Motion for Termination of the Investigation Based on Withdrawal of the Complaint; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 16) granting an unopposed motion to terminate the investigation in whole based on complainant's withdrawal of the complaint.

FOR FURTHER INFORMATION CONTACT: Lucy Grace D. Noyola, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–3438. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 24, 2015, based on a complaint filed by Silicon Genesis Corp. of San Jose, California ("Complainant"). 80 *FR* 57641 (Sept. 24, 2015). The complaint, as amended, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and/or the sale within the United States after importation of certain silicon-on-insulator wafers by reason of infringement of certain claims of U.S. Patent Nos. 5,985,742; 6,180,496; 6,294,814; 6,790,747; 7,811,901; 6,013,563 ("the '563 patent"); 6,162,705 ("the '705 patent"); and 6,103,599 ("the '599 patent"). *Id.* The notice of investigation names as a respondent Soitec S.A., Parc Technologique des Fontaines of Bernin, France ("Respondent"). *Id.* The Office of Unfair Import Investigations ("OUII") also was named as a party to the investigation. *Id.* Subsequently, the investigation was partially terminated as to several patent claims, leaving only asserted claim 1 of the '563 patent; claim 1 of the '705 patent; and claims 1 and 15 of the '599 patent remaining in the investigation. *See* Notice (Feb. 25, 2016) (determining not to review Order No. 7 (Jan. 22, 2016)); Notice (Mar. 1, 2016) (determining not to review Order No. 8 (Feb. 2, 2016)); Notice (May 4, 2016) (determining not to review Order No. 12 (Apr. 5, 2016)); Notice (May 31, 2016) (determining not to review Order No. 14 (May 5, 2016)).

On May 18, 2016, Complainant filed an unopposed motion to terminate the investigation in whole based on its withdrawal of the complaint. On May 20, 2016, OUII filed a response, supporting the motion.

On May 20, 2016, the presiding administrative law judge ("ALJ") issued an ID (Order No. 16) granting the motion. The ALJ found no extraordinary circumstances preventing termination of the investigation and further found that termination was in the public interest. No petitions for review of the ID were filed.

The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 15, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–14593 Filed 6–20–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–941]

Certain Graphics Processing Chips, Systems on a Chip, and Products Containing the Same; Commission Determination To Grant a Joint Motion To Terminate the Investigation on the Basis of a Settlement Agreement; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to grant a joint motion to terminate the above-captioned investigation based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Ron Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, (202) 205–3427. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, (202) 205–2000. General information concerning the Commission may also be obtained at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal at (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 30, 2014, based on a complaint filed by Samsung Electronics Co., Ltd. of Gyeonggi-do, Republic of Korea, and Samsung Austin Semiconductor, LLC of Austin, Texas (collectively, Complainants). 79 FR 78477–78 (Dec. 30, 2014). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain graphics processing chips (GPUs), systems on a chip (SoCs), and products containing the same by reason of infringement of one or more of claims 1–4, 6, and 19–21 of U.S. Patent No. 6,147,385 (the ’385 patent); claim 10 of U.S. Patent No. 6,173,349 (the ’349 patent); claims 1, 2, 4, 19, 20, and 22 of U.S. Patent No. 7,056,776 (the ’776 patent); and claims 1–3, 7–9, 12–15, 17, and 19 of U.S. Patent No. 7,804,734 (the ’734 patent). *Id.* The notice of investigation named as respondents NVIDIA Corporation (NVIDIA) of Santa Clara, California; Biostar Microtech International Corp. of New Taipei, Taiwan; Biostar Microtech U.S.A. Corp. of City of Industry, California; Elitegroup Computer Systems Co. Ltd. of Taipei, Taiwan; Elitegroup Computer Systems, Inc. of Newark, California; EVGA Corp. of Brea, California; Fuhu, Inc. of El Segundo, California; Jaton Corp. of Fremont, California; Mad Catz, Inc. of San Diego, California; OUYA, Inc. of Santa Monica, California; Sparkle Computer Co., Ltd. of New Taipei City, Taiwan; Toradex, Inc. of Seattle, Washington; Wikipad, Inc. of Westlake Village, California; ZOTAC International (MCO) Ltd of New Territories, Hong Kong; and ZOTAC USA, Inc. of Chino, California (collectively, Respondents). *Id.* The Office of Unfair Import Investigations (OUII) is also a party to this investigation. *Id.*

On May 1, 2015, the Commission determined not to review an initial determination terminating the investigation as to respondent Wikipad, Inc. Notice of Commission Determination Not to Review an Initial Determination Terminating the Investigation as to Respondent Wikipad, Inc. Based on a Consent Order Stipulation, Consent Order, and Settlement Agreement; Issuance of Consent Order (May 1, 2015) (determining not to review Order No. 6 (Apr. 1, 2015)). On July 1, 2015, the Commission determined not to review an initial determination terminating the investigation with respect to the ’776 patent. Notice of Commission Determination Not to Review an Initial Determination Terminating the Investigation with Respect to U.S. Patent No. 7,056,776 (July 1, 2015) (determining not to review Order No. 9 (June 9, 2015)). On August 13, 2015, the Commission determined not to review an initial determination finding that the economic prong of the domestic industry requirement has been satisfied. Notice of a Commission Determination Not to Review an Initial Determination That the Economic Prong of the Domestic Industry Requirement Has Been Satisfied (Aug. 13, 2015) (determining not review Order No. 12 (July 16, 2015)). On September 17, 2015, the Commission determined not to review (1) an initial determination terminating the investigation as to claims 19–21 of the ’385 patent and claims 7–9, 12–15, 17, and 19 of the ’734 patent; and (2) an initial determination terminating the investigation as to respondent ZOTAC International (MCO) Ltd. Notice of Commission Decision Not to Review Two Initial Determinations That Terminated the Investigation as to Certain Asserted Patent Claims and as to One Respondent (Sept. 17, 2015) (determining not to review Order No. 23 (Aug. 26, 2015) and Order No. 25 (Aug. 26, 2015)).

The following claims remained at issue for consideration by the ALJ: Claims 1–4 and 6 of the ’385 patent; claim 10 of the ’349 patent; and claims 1 and 3 of the ’734 patent. On December 22, 2015, the ALJ issued his final ID, which found a violation of all three remaining patents. *See* ID at 1. On January 5, 2016, the ALJ issued his recommended determination on remedy and bond (RD), which recommended the issuance of a limited exclusion order covering all of the infringing articles imported, sold for importation, or sold after importation by the remaining respondents. RD at 9. The RD also recommended the issuance of cease and desist orders to certain domestic respondents. *Id.* at 14. The RD additionally set a bond in the amount of 4% of the average value of the accused GPUs and SoCs. *Id.* at 17.

The remaining respondents and OUII filed petitions for review, and OUII, and Complainants filed responses to the petitions. On February 24, 2016, the Commission determined to review some of the petitioned issues. 81 FR 10654 (Mar. 1, 2016). On March 7, 2016, the parties filed written submissions on the issues under review, remedy, the public interest, and bonding. On March 14, 2016, the parties filed reply submissions. No submissions were received from the public.

On April 29, 2016, and prior to the Commission’s final determination, the private parties indicated that they had reached a settlement agreement. On May 16, 2016, the private parties filed a joint motion to terminate the investigation on the basis of that settlement pursuant to Commission Rule § 210.21(b). An amended version of the joint motion (the Corrected Joint Motion) was filed on May 19, 2016. The motion to terminate is based on a Memorandum of Understanding Regarding Settlement Agreement (MOU), a binding agreement between Samsung Electronics and NVIDIA. The Corrected Joint Motion declares that the MOU “completely resolves the disputes between all parties with respect to the asserted patents,” that there are “no other agreements, written or oral, express or implied, between them concerning the subject matter of this investigation,” and that “it is in the interest of the public and administrative economy to grant this motion.” Corrected Joint Mtn. at 2. The Corrected Joint Motion includes confidential and public versions of the MOU. On May 26, 2016, OUII filed a submission supporting the termination of the investigation. No other party filed a response to the Corrected Joint Motion.

The Commission has determined that the Corrected Joint Motion complies with the requirements of section 210.21(b)(1) of the Commission’s Rules of Practice and Procedure (19 CFR 210.21(b)(1)), and that there are no extraordinary circumstances that would prevent the requested termination. The Commission also finds that granting the Corrected Joint Motion would not be contrary to the public interest pursuant to section 210.50(b)(2) of the Commission's Rules of Practice and Procedure (19 CFR 210.50(b)(2)). Accordingly, the Commission hereby grants the Corrected Joint Motion. This investigation is terminated.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 16, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–14657 Filed 6–20–16; 8:45 am]

BILLING CODE 7020–02–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee; Meeting

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Executive Director of the Joint Board for the Enrollment of Actuaries gives notice of a meeting of the Advisory Committee on Actuarial Examinations (portions of which will be open to the public) in Arlington, VA, on July 14–15, 2016.

DATES: Thursday, July 14, 2016, from 9:00 a.m. to 5:00 p.m., and Friday, July 15, 2016, from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Internal Revenue Service, 2345 Crystal Drive, Suite 400, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Patrick W. McDonough, Executive Director of the Joint Board for the Enrollment of Actuaries, 703–414–2173.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at the Internal Revenue Service, 2345 Crystal Drive, Suite 400, Arlington, VA 22202, on Thursday, July 14, 2016, from 9:00 a.m. to 5:00 p.m., and Friday, July 15, 2016, from 8:30 a.m. to 5:00 p.m.

The purpose of the meeting is to discuss topics and questions that may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in 29 U.S.C. 1242(a)(1)(B) and to review the May 2016 Pension (EA–2L) and Basic (EA–1) Examinations in order to make recommendations relative thereto, including the minimum acceptable pass scores. Topics for inclusion on the syllabus for the Joint Board's examination program for the November 2016 Pension (EA–2F) Examination will be discussed.

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that the portions of the meeting dealing with the discussion of questions that may appear on the Joint Board's examinations and the review of the May 2016 Pension (EA–2L) and Basic (EA–1) Examinations fall within the exceptions to the open meeting requirement set forth in 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such portions be closed to public participation.

The portion of the meeting dealing with the discussion of the other topics will commence at 1:00 p.m. on July 14, 2016, and will continue for as long as necessary to complete the discussion, but not beyond 3:00 p.m. Time permitting, after the close of this discussion by Committee members, interested persons may make statements germane to this subject. Persons wishing to make oral statements should notify the Executive Director in writing prior to the meeting in order to aid in scheduling the time available and should submit the written text, or at a minimum, an outline of comments they propose to make orally. Such comments will be limited to 10 minutes in length. All persons planning to attend the public session should notify the Executive Director in writing to obtain building entry. Notifications of intent to make an oral statement or to attend must be sent electronically, by no later than July 7, 2016, to *nhqjbea@irs.gov.* Any interested person also may file a written statement for consideration by the Joint Board and the Committee by sending it to: Internal Revenue Service; Attn: Patrick W. McDonough, Executive Director; Joint Board for the Enrollment of Actuaries SE:RPO; REFM, Park 4, Floor 4; 1111 Constitution Avenue NW., Washington, DC 20224.

Dated: June 13, 2016.

Patrick W. McDonough,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 2016–14542 Filed 6–20–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—R Consortium, Inc.

Notice is hereby given that, on May 23, 2016, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), R Consortium, Inc. ("R Consortium") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Avant, Inc., Chicago, IL, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and R Consortium intends to file additional written notifications disclosing all changes in membership.

On September 15, 2015, R Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 2, 2015 (80 FR 59815).

The last notification was filed with the Department on December 3, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 11, 2016 (81 FR 1206).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–14704 Filed 6–20–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Open Group, L.L.C.

Notice is hereby given that, on May 13, 2016, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), The Open Group, L.L.C. ("TOG") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, AeroVironment, Inc., Simi Valley, CA; Brain4ce Education Solutions Pvt. Ltd., Bangalore, INDIA; Business Architecture Guild, Soquel, CA; Cambia Health Solutions, Inc., Portland, OR; CyberCore Technologies, L.L.C., Elkridge, MD; ExperTeach GmbH, Dietzenbach, GERMANY; Fundacion de Egresados de la Universidad Distrital, Bogota, COLOMBIA; Genesis Housing Association, London, UNITED KINGDOM; InfoDom Ltd., Zagreb, CROATIA; Informatica Advies Bureau bvba, Boutersem, BELGIUM; Justin Group Oy, Espoo, FINLAND; Knowledgecom Corporation Sdn. Bhd., Petaling Jaya, MALAYSIA; Knowledgehut Solutions Pvt. Ltd., Bengaluru, INDIA; Mike Moore Consultancy Ltd., Colchester, UNITED KINGDOM; Moody's Corporation, New York, NY; On-Line Applications Research Corporation, Hunstville, AL; Performance Software, Clearwater, FL; Processworks, Pte. Ltd., Singapore, SINGAPORE; PTI Consulting Limited, Nairobi, KENYA; Sandvik IT Services AB, Sandviken, SWEDEN; San Jose State University, San Jose, CA; Skillmetrix Knowledge Services LLP, Pune, INDIA; Tayllor & Cox, s.r.o., Prague, CZECH REPUBLIC, Thales USA, Inc., Arlington, VA; Trideum Corporation, Huntsville, AL; Tubitak Bilgem, Kocaeli, TURKEY; Vidyalankar School of Information Technology, Mumbai, INDIA, and Wakaru OY, Helsinki, FINLAND, have been added as parties to this venture.

Also, Ajilon (Australia) Pty Ltd., Perth, AUSTRALIA; APISA Alternativas en Productividad Integral, S.A. de C.V., Mexico City, MEXICO; ArchiSpark sp. z.o.o., Katowice, POLAND; AT&T IT Architecture Solutions, Alpharetta, GA; Atego Group Limited, Phoenix, AZ; BBN Technologies Corp., St. Louis Park, MN; British Telecom Plc; Edinburgh, UNITED KINGDOM; Cynergy Professional Systems LLC, Santa Ana, CA; Firstrand Bank Limited, Sandton, SOUTH AFRICA; Galois, Inc., Portland, OR; Government of New Brunswick, Fredericton, CANADA; Grant MacEwan College, Edmonton, CANADA; Information-technology Promotion Agency, Tokyo, JAPAN; Integrate IT, LLC, Hood River, OR; JSM Consulting, Lempaala, FINLAND; Kirk Hansen Consulting Inc., Toronto, CANADA; LoQutus NV, Sint-Martens-Latem, BELGIUM; Massachusetts Institute of Technology-Kerberos Consortium, Cambridge, MA; MooD International Software, York, UNITED KINGDOM; Ooredoo Group LLC, Doha, QATAR; Promise Innovation International Oy, Siunitio, FINLAND; Sensedia, Campinas, BRAZIL; St Mary's University College, London, UNITED KINGDOM; The Dragon1 Software Company, Bennekom, THE NETHERLANDS; Troux Technologies, Austin, TX; Universidad Politecnica de Victoria, Victoria, MEXICO; and Versatil-i-T, Longueuil, CANADA, have withdrawn as parties to this venture.

In addition, GE Intelligent Systems has changed its name to Abarco Systems, Inc., Huntsville, AL.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and TOG intends to file additional written notifications disclosing all changes in membership.

On April 21, 1997, TOG filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 13, 1997 (62 FR 32371).

The last notification was filed with the Department on December 8, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 11, 2016 (81 FR 1206).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–14707 Filed 6–20–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—3D PDF Consortium, Inc.

Notice is hereby given that, on May 20, 2016, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), 3D PDF Consortium, Inc. ("3D PDF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Actify, Inc., San Francisco, CA; Lattice Technology, Inc., San Francisco, CA; OpenText Corp., Waterloo, Ontario, CANADA; and IntraTech Corporation, Seoul, REPUBLIC OF KOREA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and 3D PDF intends to file additional written notifications disclosing all changes in membership.

On March 27, 2012, 3D PDF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 20, 2012 (77 FR 23754).

The last notification was filed with the Department on November 23, 2015. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 23, 2015 (80 FR 79930).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–14703 Filed 6–20–16; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Network Centric Operations Industry Consortium, Inc.

Notice is hereby given that, on May 26, 2016, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Network Centric Operations Industry Consortium, Inc. ("NCOIC") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Eagle Summit Technology Associates, Inc., Albuquerque, NM, has been added as a party to this venture.

Also, Matthew Ragan (individual member), Fairfax, VA, and Kaltura, Inc., New York, NY, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and NCOIC intends to file additional written notifications disclosing all changes in membership.

On November 19, 2004, NCOIC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on February 2, 2005 (70 FR 5486).

The last notification was filed with the Department on March 8, 2016. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on April 1, 2016 (81 FR 18889).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–14695 Filed 6–20–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ODVA, Inc.

Notice is hereby given that, on May 12, 2016, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), ODVA, Inc. ("ODVA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, SoftPLC Corporation, Spicewood, TX; Invertek Drives Ltd., Powys, UNITED KINGDOM; SERVO-ROBOT INC., St-Bruno, Quebec, CANADA; and Fortress Interlocks, Wolverhampton, UNITED KINGDOM, have been added as parties to this venture.

Also, Misumi Corporation, Tokyo, JAPAN and HMS Technology Center Ravensburg GmbH (formerly IXXAT Automation GmbH), Ravensburg, GERMANY, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and ODVA intends to file additional written notifications disclosing all changes in membership.

On June 21, 1995, ODVA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on February 15, 1996 (61 FR 6039).

The last notification was filed with the Department on February 1, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on February 26, 2016 (81 FR 9884).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–14705 Filed 6–20–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ASTM International Standards

Notice is hereby given that, on May 18, 2016, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), ASTM International ("ASTM") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ASTM has provided an updated list of current, ongoing ASTM standards activities originating between February 2016 and May 2016 designated as Work Items. A complete listing of ASTM Work Items, along with a brief description of each, is available at *http://www.astm.org.*

On September 15, 2004, ASTM filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 2004 (69 FR 65226).

The last notification was filed with the Department on February 10, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 1, 2016 (81 FR 18888).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2016–14706 Filed 6–20–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Office of the Secretary

Privacy Act of 1974; Publication In Full of All Notices of Systems of Records, Including Several New Systems, Substantive Amendments to Existing Systems, Decommissioning of Obsolete Legacy Systems, and Publication of Proposed Routines Uses

AGENCY: Office of the Secretary, Labor.

ACTION: Notice: Postponement of the effective date of the Department's April 29, 2016 System of Records Notice to July 23, 2016.

SUMMARY: This notice announces a one month postponement of the effective date of the Department of Labor's Systems of Records Notice, which was published on April 29, 2016 with an effective date of June 23, 2016. In order to address public comments received on this System of Records Notice, the Department is postponing the effective date to July 23, 2016.

DATES: The effective date for the Department's System of Records Notice is postponed to July 23, 2016. Unless there is a further notice in the **Federal Register**, these proposed 21 new systems of records and 108 amended systems of records and decommissioned 43 existing systems of records, as well as the two new routine uses, will become effective on July 23, 2016.

FOR FURTHER INFORMATION CONTACT: Written comments may be sent to Joseph J. Plick, Counsel for FOIA and Information Law, Office of the Solicitor, Department of Labor, 200 Constitution Avenue NW., Room N–2420, Washington, DC 20210, telephone (202) 693–5527, or by email to *plick.joseph@dol.gov.*

SUPPLEMENTARY INFORMATION: On April 29, 2016, the Department of Labor issued a Publication In Full of All Notices of Systems of Records, including several new systems; substantive amendments to systems; decommissioning of obsolete legacy systems; and publication of new universal routine uses for all system of records. The Department received several public comments and one agency comment on this System of Records Notice during the public comment period, which ended June 8, 2016. The Department requires additional time to review and address the comments, including publishing a response and, if warranted, revising the System of Records Notice. In order to complete this process, the Department is postponing the effective date of the

System of Records Notice. The new effective date will be July 23, 2016.

Signed at Washington, DC, this 15th day of June 2015.

Thomas E. Perez,

Secretary of Labor.

[FR Doc. 2016–14624 Filed 6–20–16; 8:45 am]

BILLING CODE 4510–HL–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2016–036]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of proposed extension request.

SUMMARY: NARA proposes to request an extension from the Office of Management and Budget (OMB) of approval to use a consent and authorization form. Requesters use the form to authorize NARA's Office of Government Information Services (OGIS) to make inquiries on their behalf and to authorize agencies to release information and records related to their Freedom of Information Act/Privacy Act requests/appeals. We invite you to comment on this proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: We must receive written comments on or before August 22, 2016.

ADDRESSES: Send comments to Paperwork Reduction Act Comments (ISSD), Room 4400; National Archives and Records Administration; 8601 Adelphi Road; College Park, MD 20740–6001, fax them to 301–713–7409, or email them to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Tamee Fechhelm by telephone at 301–837–1694 or fax at 301–713–7409 with requests for additional information or copies of the proposed information collection and supporting statement.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for NARA to properly perform its functions; (b) NARA's estimate of the burden of the proposed information collection and its accuracy; (c) ways NARA could enhance the quality, utility, and clarity of the information it collects; (d) ways NARA could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether this collection affects small businesses. We will summarize any comments you submit and include the summary in our request for OMB approval. All comments will become a matter of public record. In this notice, NARA solicits comments concerning the following information collection:

Title: Consent to Make Inquiries and Release of Information and Records.

OMB Number: 3095–0068.

Agency Form Number: NA Form 10003.

Type of Review: Regular.

Affected Public: Individuals or households, business or other for-profit, not-for-profit institutions, and Federal Government.

Estimated Number of Respondents: 400.

Estimated Time per Response: 2 minutes.

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 13 hours.

Abstract: In order to fulfill its Government-wide statutory mission, OGIS provides varying types of assistance to its customers, which requires communicating with Government departments and agencies regarding the customer's FOIA/Privacy Act request/appeal. Under the Privacy Act, the agencies may not share peoples' personal information without either a routine use that they inform people of prior to gathering the information, or permission from the involved person. As a result, OGIS uses NA Form 10003 to collect that authorization and the identifying information necessary for the agency to identify the correct files so that OGIS may provide the requested assistance. Without the information submitted in NA Form 10003, OGIS would be unable to fulfill its mission or provide assistance to requesters. Requesters use the NA Form 10003, OGIS Consent to Make Inquiries and Release of Information and Records, to (1) request that OGIS make inquiries on their behalf and (2) authorize agencies to release records and information related to their FOIA and Privacy Act requests and appeals so that OGIS can assist in resolving the dispute or in providing information to the requester. The authority for this information collection is prescribed by 5 U.S.C. 552a(b), and as interpreted by *Taylor* v. *Orr,* No. 83–0389, 1983 U.S. Dist. LEXIS 20334, at *6 n.6 (D.D.C. Dec. 5, 1983).

Dated: June 13, 2016.

Swarnali Haldar,

Executive for Information Services/CIO.

[FR Doc. 2016–14629 Filed 6–20–16; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Extend an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than three years.

DATES: Written comments on this notice must be received by August 22, 2016 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-(800) 877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Grantee Reporting Requirements for Partnerships for Research and Education in Materials (PREM).

OMB Number: 3145–0232.

Expiration Date of Approval: December 31, 2016.

Type of Request: Intent to seek approval to extend an information collection.

Overview of This Information Collection: The Partnerships for Research and Education in Materials (PREM) aims to enhance diversity in materials research and education by stimulating the development of formal, long-term, collaborative research and education relationships between minority-serving colleges and universities and centers, institutes and facilities supported by the NSF Division of Materials Research (DMR). With this collaborative model PREMs build intellectual and physical infrastructure within and between disciplines, weaving together knowledge creation, knowledge integration, and knowledge transfer. PREMs conduct world-class research through partnerships of academic institutions, national laboratories, industrial organizations, and/or other public/private entities. New knowledge thus created is meaningfully linked to society, with an emphasis on enhancing diversity.

PREMs enable and foster excellent education, integrate research and education, and create bonds between learning and inquiry so that discovery and creativity more fully support the learning process. PREMs capitalize on diversity through participation and collaboration in center activities and demonstrate leadership in the involvement of groups underrepresented in science and engineering.

PREMs will be required to submit annual reports on progress and plans, which will be used as a basis for performance review and determining the level of continued funding. To support this review and the management of the award PREMs will be required to develop a set of management and performance indicators for submission annually to NSF via the Research Performance Project Reporting module in *Research.gov* and an external technical assistance contractor that collects programmatic data electronically. These indicators are both quantitative and descriptive and may include, for example, the characteristics of personnel and students; sources of financial support and in-kind support; expenditures by operational component; research activities; education activities; patents, licenses; publications; degrees granted to students involved in PREM activities; descriptions of significant advances and other outcomes of the PREM effort.

Each PREM's annual report will address the following categories of activities: (1) Research, (2) education, (3) knowledge transfer, (4) partnerships, (5) diversity, (6) management, and (7) budget issues.

For each of the categories the report will describe overall objectives for the year, problems the PREM has encountered in making progress towards goals, anticipated problems in the following year, and specific outputs and outcomes.

PREMs are required to file a final report through the RPPR and external technical assistance contractor. Final reports contain similar information and metrics as annual reports, but are retrospective.

Use of the Information: NSF will use the information to continue funding of PREMs, and to evaluate the progress of the program.

Estimate of Burden: 25 hours per PREM for 12 PREMs for a total of 300 hours.

Respondents: Non-profit institutions.

Estimated Number of Responses per Report: One from each of the twelve PREMs.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: June 16, 2016.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2016–14613 Filed 6–20–16; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–09; NRC–2015–0150]

Independent Spent Fuel Storage Installation, Department of Energy; Fort St. Vrain

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a request submitted by the Department of Energy (DOE or the licensee) on April 27, 2016, from NRC's requirement to comply with the terms, conditions, and specifications concerning testing and surveillance in Special Nuclear Material License No. SNM–2504 for the Fort St. Vrain independent spent fuel storage installation (ISFSI). The exemption request seeks the extension of the time to perform an O-ring leakage rate test required by Technical Specification (TS) 3.3.1 of Appendix A of Special Nuclear Material License No. SNM–2504 and to perform an aging management surveillance described in the Fort St. Vrain (FSV) Final Safety Analysis Report (FSAR). The DOE requests the dates for performance of the testing and surveillance requirements be extended until December 2016. The NRC previously granted DOE an exemption (80 FR 33299 dated, June 11, 2015) extending the completion date for these actions until June 2016.

DATES: The exemption is effective on June 21, 2016.

ADDRESSES: Please refer to Docket ID NRC–2015–0150 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0150. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "ADAMS Public Documents" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Bernard White, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6577; email: *Bernard.White@nrc.gov.*

I. Background

The DOE is the holder of Special Nuclear Material License No. SNM–

2504 which authorizes receipt, possession, storage, transfer, and use of irradiated fuel elements from the decommissioned FSV Nuclear Generating Station in Platteville, Colorado, under part 72 of title 10 of the *Code of Federal Regulations* (10 CFR).

II. Request/Action

In a letter dated, April 27, 2016, the DOE requested an exemption to delay performance of both the fuel storage container O-ring leakage rate test requirement and the FSAR aging management surveillance of fuel storage containers by six months, until December 31, 2016 (ADAMS Accession No. ML16120A410). Technical Specification 3.1.1 in Appendix A of License No. SNM–2504 stipulates that, the fuel storage container seal leakage rate for shall not exceed 1×10^{-3} reference cubic centimeters per second (ref-cm^3/s). Surveillance Requirement (SR) 3.3.1.1 requires that one fuel storage container from each vault to be leakage rate tested every five years to confirm that the seal leakage rate is not exceeded. DOE performed the last leakage rate test in June 2010 and the next leakage rate test is scheduled to be completed in June 2016.

Fort St.Vrain implemented its aging management program as part of license renewal in 2011. Condition 9 of SNM–2504 states, in relevant part, that authorized use of the material at the FSV ISFSI shall be "in accordance with statements, representations, and the conditions of the Technical Specifications and Safety Analysis Report." Condition 11 of SNM–2504 directs the licensee to operate the facility in accordance with the Technical Specifications in Appendix A. In Chapter 9 of the FSV FSAR the licensee committed to assess six fuel storage containers for potential hydrogen buildup by the end of June 2015. This date was extended until June 2016, with NRC's grant of an exemption. The hydrogen sampling schedule was established to parallel the fuel storage container seal leakage rate testing schedule.

III. Discussion

Pursuant to 10 CFR 72.7, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 72 when the exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. The DOE requested an exemption from both 10 CFR 72.44(c)(1) and 10 CFR 72.44(c)(3). Section 72.44(c)(1) requires, in part, compliance with functional and operational limits to protect the integrity of waste containers and to guard against the uncontrolled release of radioactive material. Section 72.44(c)(3) requires compliance with surveillance requirement in Limiting Condition of Operation (LCO) 3.3.1 which the licensee will use show that the ISFSI has not exceeded the fuel storage container or storage well seal leakage rate. For these reasons, the staff also grants DOE an exemption from the requirements of 10 CFR 72.44(c)(1) and 10 CFR 72.44(c)(3).

As is explained in following paragraphs, the proposed exemption is lawful, will not endanger life or property, or the common defense and security, and is otherwise in the public interest.

Authorized by Law

This exemption delays until December 2016, the licensee's performance of (1) a fuel storage container O-ring leakage rate test required by TS 3.3.1 of Appendix A of Special Nuclear Material License No. SNM–2504 and (2) an FSAR aging management surveillance to inspect six fuel storage containers for hydrogen buildup. Condition 9 of SNM–2504 states, in relevant part, that authorized use of the material at the FSV's ISFSI shall be "in accordance with statements, representations, and the conditions of the Technical Specifications and Safety Analysis Report." Condition 11 of SNM–2504 also directs the licensee to operate the facility in accordance with the Technical Specifications in Appendix A.

The provisions in 10 CFR 72.44(c)(1) and (3) require the licensee to follow the technical specifications and the functional and operational limits for the facility. The testing and inspection requirements from which DOE requested exemption are detailed in the Special Nuclear Material License No. SNM–2504, the FSAR, and FSV's technical specifications and must be complied with pursuant to 10 CFR part 72. Section 72.7 allows the NRC to grant specific exemptions from the requirements of 10 CFR part 72. Issuance of this exemption is consistent with the Atomic Energy Act of 1954, as amended, and not otherwise inconsistent with NRC regulations or other applicable laws. Therefore, the exemption is authorized by law.

Will Not Endanger Life or Property or the Common Defense and Security

In granting the March 19, 2015 exemption request, the NRC staff determined that it would not endanger life or property, or the common defense and security. The current exemption extends the deadline for performance of the testing and surveillance requirements until December 2016. The staff evaluated whether the additional six month extension provided by this exemption would change its earlier finding; the staff finds that the current exemption does not endanger life or property, or the common defense and security for the reasons discussed below.

Potential Corrosion

Fort St. Vrain's ISFSI Aging Management Program described in Section 9.8 of FSV's ISFSI FSAR identifies a commitment to test one fuel storage container in each vault for hydrogen buildup. The test is designed to identify corrosion in the interior of the fuel storage containers. In its FSAR the licensee committed to complete testing for hydrogen buildup on the same schedule as the leak test, which required the test to be completed no later than June 2015. In its March 2015 exemption request, FSV concluded that hydrogen buildup had not occurred in fuel storage containers in its ISFSI. The NRC extended the completion date for the sampling for actual hydrogen buildup until to June 2016. Fort St. Vrain's conclusions were supported by the following observations:

1. The fuel was stored in dry helium prior to placement in the fuel storage containers.
2. General corrosion, as opposed to galvanic corrosion, was the only corrosion mechanism of concern for the canister.
3. The expected corrosion reactions would not generate significant quantities of hydrogen, because any water inside the fuel storage container is expected to have neutral pH (*i.e.,* not acidic).

Therefore, FSV concluded there were no safety implications associated with delaying the hydrogen test for one year. The licensee presented the same conclusions and observations in support of its April 2016 request to extend the testing date.

The staff conducted its own evaluation of the data supporting FSV's March 2015 and April 2016 requests and found no safety implications associated with delaying the hydrogen test until December 2016. The staff made specific determinations concerning the safety of granting the exemption, including that the maximum hydrogen volume fraction is 7 percent inside the fuel storage container. Therefore, a fire or explosion of hydrogen at this level is very unlikely and does not present a significant safety issue. The staff's calculation of the hydrogen volume fraction was a time independent calculation to determine the maximum hydrogen concentration assuming the possible reactants, oxygen and water, were fully consumed. A delay in performing the hydrogen test for six additional months will increase the container storage period from 25 years to 25.5 years without the performance of a hydrogen test. However, the staff finds that the extension will not increase the probability of either a hydrogen ignition event during storage or failure of the fuel storage container integrity due to corrosion, and therefore, fuel storage container safety is not reduced.

The NRC staff concludes that hydrogen ignition events associated with handling fuel storage containers are very unlikely to occur because the Modular Vault Dry Store building where the fuel storage canisters are located contains no volatile materials or gases. A full discussion of this issue is found in FSV's SAR 3 (see ADAMS Accession No. ML102380351). The Component Operational Testing procedures in the Aging Management Program, which must be implemented after license renewal, are described in FSV's SAR (see ADAMS Accession No. ML103640385). These procedures eliminate hydrogen ignition sources by sampling and analyzing the air inside containers for the presence of hydrogen and purging hydrogen before moving or removing lids from containers holding spent fuel.

Leakage Rate

Limiting Condition of Operation 3.3.1 in Appendix A of License No. SNM–2504 states that the fuel storage containers seal leakage rate shall not exceed 1×10^{-3} ref-cm^3/s. Surveillance Requirement 3.3.1.1 stipulates that one fuel storage container from each vault be subject to a leakage rate test every 5 years. The basis for SR 3.3.1.1 is that performance of a leakage rate test of at least six fuel storage containers every 5 years provides reasonable assurance of continued integrity. The original leakage rate test at FSV was performed in 1991 after the loading of canisters; subsequent leakage rate tests were performed on one fuel storage container from each vault in years 1996, 2001, 2005, and 2010. The results of all FSV's leakage rate tests have never exceeded the maximum rate of 1×10^{-3} ref-cm^3/s.

As part of its April 2016 exemption request, DOE evaluated whether the exemption is consistent with the confinement barrier requirements described in FSV's FSAR at 3.3.2.1 and in SR 3.3.1.1. The DOE classified the failure of the redundant metal O-ring seals in a fuel storage cylinder as a low probability event. In addition, Section 8.2.15 of the FSV FSAR identifies no credible failure mechanisms for the fuel storage container O-rings. The DOE calculated that in June 2017, the average and maximum O-ring seal leakage rates for fuel storage containers are expected to be 3.75×10^{-4} and 6.76×10^{-4} ref-cm^3/s, respectively. These conservative calculations are presented in Engineering Design File-10727, Estimation of 2017 Leak Rates of Fort St. Vrain Fuel Storage Containers (ADAMS Accession No. ML15104A064). Both the average and maximum seal leakage rate values are below the maximum leakage rate of 1×10^{-3} ref-cm^3/s, permitted by TS 3.3.1. The DOE identified O-ring failure as a potential failure mode that could result in leakage in excess of 1×10^{-3} ref-c cm^3/s, although DOE did not provide specific details of potential O-ring failure mechanisms.

The NRC staff's evaluation notes that typical failure modes for O-ring seals include:

1. Corrosion of the O-ring,
2. corrosion of the O-ring flange sealing surface (area in contact with the O-ring), and
3. creep or relaxation of the O-ring.

The DOE's March 2015 exemption request, as supplemented on June 1, 2015 (ADAMS Accession No. ML15153A280), describes the O-rings as silver plated alloy X–750 in the work-hardened condition. The O-rings are installed with a grease/lubricant to facilitate sealing and prevent damage to the O-rings during lid installation and compression of the O-rings. The presence of grease, the construction materials used, and the limited amount of water in the vicinity of the O-rings reduce the likelihood of corrosion of the O-rings and the O-ring seal area on the fuel storage containers.

The NRC staff reviewed the testing methods and the test pressures generated by previous leakage rate tests. In addition, the staff evaluated the correlations between leakage rate and pressure drop for the O-ring seals. These estimated O-ring seal leakage rates were reported in EDF–10727. The NRC staff determined that the data and correlations that DOE used accurately predict the June 2017 fuel storage container O-ring seal leakage rates. The staff confirmed that DOE's average and maximum 2017 leakage rate estimates of 3.75×10^{-4} and 6.76×10^{-4} ref-cm^3/s are both acceptable and below the maximum limit of 1×10^{-3} ref-cm^3/s in LCO 3.3.1.

The NRC staff also reviewed Section 8.2.15 of FSV's FSAR and DOE's analyses of the consequences associated with a radiological release from a fuel storage container. The staff confirmed that even if the leakage rate of 1×10^{-3} ref-cm^3/s were grossly exceeded, the consequences would be minimal. For example,

1. The radiological consequences at the controlled area boundary would be within the requirements of 10 CFR 72.106.
2. A radiological release with a leakage rate greater than 1×10^{-3} ref-cm^3/s that passes beyond the redundant O-ring seals would be bounded by the maximum credible accident described in the FSV's FSAR at 8.2.15.
3. Furthermore, the failure of the redundant metallic seals (loss of confinement) is considered a low probability event during the entire storage period.

Based on the findings discussed in this section, the NRC staff concludes that granting the DOE's exemption will not endanger public health and safety or the common defense and security. Delaying the fuel storage container O-ring leakage rate test required by TS 3.1.1 and the aging management monitoring of six fuel storage containers for hydrogen buildup until December 2016, will not increase the likelihood of a seal leak occurring. Therefore, the extension permitted by the current exemption does not change the licensing basis of the ISFSI design and it does not alter the staff's conclusion in June 2015, that the fuel storage container design and lid seals are acceptable.

Otherwise in the Public Interest

In the March 2016 exemption application, the DOE sought a delay of the fuel storage container O-ring leakage rate test and FSAR aging management surveillance for one year. The DOE explained that the extension would allow it to prioritize activities at the FSV site and reduce the administrative burden on the licensee and the NRC staff to perform the June 2016 test. The staff finds these statements are still valid and support a six-month extension, therefore issuance of the proposed exemption is otherwise in the public interest.

Environmental Consideration

The NRC staff evaluated whether significant environmental impacts are associated with the issuance of the requested exemption. The NRC staff determined that the proposed action fits a category of actions that does not require an environmental assessment or environmental impact statement. The exemption meets the categorical exclusion criteria of 10 CFR 51.22(c)(25)(i)–(vi).

Granting an exemption from the requirements of 10 CFR 72.44(c)(1) and 10 CFR 72.44(c)(3) will extend the time for DOE to conduct the inspection and surveillance of the fuel storage container O-ring leakage rate test required by TS 3.3.1 and the FSAR aging management surveillance of fuel storage containers for hydrogen buildup required by license Condition No. 9. A categorical exclusion for inspection and surveillance requirements is provided under 10 CFR 51.22(c)(25)(vi)(C), when the criteria in 10 CFR 51.22(c)(25)(i)–(v) are also satisfied. In its review of the exemption request, the NRC staff determined that, under 10 CFR 51.22(c)(25) granting the exemption: (i) Does not involve a significant hazards consideration because it does not reduce a margin of safety, create a new or different kind of accident not previously evaluated, or significantly increase the probability or consequences of an unevaluated accident; (ii) would not significantly change the types or amounts of effluents that may be released offsite because the exemption does not change or produce additional avenues of effluent release; (iii) would not significantly increase occupational or public radiation exposure, individually or cumulatively, because the exemption does not introduce new or increased radiological hazards; (iv) would not result in significant construction impacts because the exemption does not involve construction or other ground disturbing activities, or change the footprint of the existing ISFSI; and (v) would not increase the potential for or the consequences of radiological accidents. For example, a gross leak from a fuel storage container or excessive hydrogen buildup in a fuel storage container is unlikely because the exemption does not reduce the ability of the container to confine radioactive material or create new accident precursors at FSV's ISFSI. Accordingly, this exemption meets the eligibility criteria for categorical exclusion in 10 CFR 51.22(c)(25). There are no significant radiological environmental impacts associated with the proposed action.

IV. Conclusions

Accordingly, the NRC has determined that, pursuant to 10 CFR 72.7, this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the NRC hereby grants DOE an exemption from the regulations at 10 CFR 72.44(c)(1) and 10 CFR 72.44(c)(3) to permit a delay by six months of the monitoring and surveillance scheduled for June 2016. The exemption extends the date for completion of the O-ring leakage rate test under SR 3.3.1.1 for one fuel storage container from each vault and the FSAR aging management inspection of FSCs for hydrogen until December 31, 2016. This exemption is effective as of June 21, 2016.

Dated at Rockville, Maryland, this 15th day of June, 2016.

For the Nuclear Regulatory Commission.

John McKirgan,

Chief, Spent Fuel Licensing Branch, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2016–14673 Filed 6–20–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–036; NRC–2008–0616]

Entergy Operations, Inc., River Bend Station, Unit 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for combined license; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing an application for a combined license (COL) for a single unit of the Economic Simplified Boiling-Water Reactor. This reactor would be identified as River Bend Station, Unit 3 (RBS3) and would be located at the current River Bend Nuclear Station site near St. Francisville, Louisiana in West Feliciana Parish.

DATES: The effective date of the withdrawal of the application for combined license is June 21, 2016.

ADDRESSES: Please refer to Docket ID NRC–2008–0616 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0616. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Adrian Muñiz, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–4093; email: *Adrian.Muniz@nrc.gov*.

SUPPLEMENTARY INFORMATION: A notice of receipt and availability of this application was previously published in the **Federal Register** on November 17, 2008 (73 FR 67895). On December 10, 2008 (73 FR 75141), a subsequent notice was published in the **Federal Register** announcing the acceptance of the RBS3 COL application for docketing in accordance with part 2 of title 10 of the *Code of Federal Regulations* (10 CFR), "Agency Rules of Practice and Procedure," and 10 CFR part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants." The docket number established for this application is 52–036.

By letter dated January 9, 2009, Entergy Operations, Inc. (EOI) requested that the NRC temporarily suspend the COL application review, including any supporting reviews by external agencies, until further notice (ADAMS Accession No. ML090130174). The NRC granted the suspension request (ADAMS Accession No. ML090080277). By letter dated December 4, 2015, EOI requested the NRC to withdraw the RBS3 COL application from the docket (ADAMS Accession No. ML15338A298). Pursuant to the requirements in 10 CFR part 2, the Commission grants EOI its request to withdraw the RBS3 COL application.

Dated at Rockville, Maryland, this 14th day of June, 2016.

For the Nuclear Regulatory Commission.

Francis M. Akstulewicz,

Director, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2016–14630 Filed 6–20–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0116]

Biweekly Notice: Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from May 24, 2016, to June 6, 2016. The last biweekly notice was published on June 7, 2016 (81 FR 36613).

DATES: Comments must be filed by July 21, 2016. A request for a hearing must be filed by August 22, 2016.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0116. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Paula Blechman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–2242, email: *Paula.Blechman@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0116 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0116.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section of this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0116, facility name, unit number(s), application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies and procedures.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii). If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by August 22, 2016. The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that under § 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by August 22, 2016.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, in some instances, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to this license amendment application, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the "Obtaining Information and Submitting Comments" section of this document.

Northern States Power Company—Minnesota, Docket No. 50–282, Prairie Island Nuclear Generating Plant, Unit 1, Goodhue County, Minnesota

Date of amendment request: April 7, 2016. A publicly-available version is in ADAMS under Accession No. ML16098A093.

Description of amendment request: The proposed amendment would allow a one-time extension for one technical specification (TS) Surveillance Requirement (SR) with a 24-month surveillance. The surveillance frequency extension would be one month (30 days) or to 25 months. This one-time extension is for the current operating cycle (Unit 1 cycle 29) only. The affected surveillance is TS SR 3.8.4.3, which verifies battery capacity is adequate.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The requested action is a short duration, one-time extension of the performance frequency of a single TS SR. The performance of the surveillance, or the failure to perform the surveillance, is not a precursor to an accident. Performing the surveillance or failing to perform the surveillance does not affect the probability of an accident. Therefore, the proposed delay in performance of the surveillance requirements in this license amendment request (LAR) does not increase the probability of an accident.

A delay in performing the surveillance does not result in a system being unable to perform its required function. Therefore, the systems required to mitigate accidents will remain capable of performing their required functions. No new failure modes have been introduced because of this action and the consequences remain consistent with previously evaluated accidents.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed amendment does not involve a physical alteration of any SSC [structure, system, and component] or a change in the way any SSC is operated. The proposed amendment does not involve operation of any SSCs in a manner of configuration different from those previously recognized or evaluated. No new failure mechanisms will be introduced by the one-time surveillance extension being requested.

Therefore, the proposed change does not create the possibility of a new or different kind of accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment is a one-time extension of the surveillance frequency of a single TS SR. Extending the SR frequency does not involve a modification of any TS Limiting Condition for Operation. Extending the surveillance frequency does not involve a change to how accidents are mitigated or a significant increase in the consequences of an accident. Extending the surveillance frequency does not involve a change in any operating procedure or process.

The equipment involved in this request has exhibited reliable operation based on the results of previous battery capacity tests, weekly battery checks and the lack of system health issues that would call into question the performance or capacity of the 11 Battery. Therefore, the limited additional time that the SSCs will be in service before the surveillance is performed does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: David J. Wrona.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the "Obtaining Information and Submitting Comments" section of this document.

Dairyland Power Cooperative, Docket Nos. 50–409 and 72–046, La Crosse Boiling Water Reactor, La Crosse County, Wisconsin

Date of application for amendment: October 8, 2015, as supplemented by letter dated December 15, 2015.

Brief description of amendment: The amendment approved conforming changes to the license to reflect the implementation of the Order, dated May 20, 2016, approving the direct transfer of Possession Only License No. DPR–45 for the La Crosse Boiling Water Reactor (LACBWR) from the current holder, Dairyland Power Cooperative (DPC), to LaCrosse*Solutions*, LLC (LS) a wholly owned subsidiary of Energy*Solutions*, LLC (ES). The transfer assigns DPC's licensed possession, maintenance, and decommissioning authorities for LACBWR to LS in order to implement expedited decommissioning at the LACBWR site. The NRC confirmed that LS met the regulatory, legal, technical, and financial obligations necessary to qualify them as a transferee, and determined that (1) the transferee is qualified to be the holder of the license; and (2) the transfer of the license is otherwise consistent with the applicable provisions of law, regulations, and orders issued by the Commission.

Date of issuance: June 1, 2016.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 74.

Possession Only License No. DPR–45: The amendment revised the Possession Only License.

Date of initial notice in ***Federal Register***: March 18, 2016 (81 FR 14898). The supplemental letter dated December 15, 2015, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not affect the applicability of the NRC's generic no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a safety evaluation dated May 20, 2016, which is available in ADAMS at Accession No. ML16123A049.

Duke Energy Carolinas, LLC, Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: June 12, 2015, as supplemented by letter dated March 11, 2016.

Brief description of amendments: The amendment modified Technical

Specification Table 3.4.1–1. Specifically, the proposed change modified the minimum required reactor coolant system total flow rates from less than or equal to 388,000 gallons per minute (gpm) to less than or equal to 384,000 gpm for the Catawba Nuclear Station, Unit 1, and from less than or equal to 390,000 gpm to less than or equal to 387,000 gpm for the Catawba Nuclear Station, Unit 2.

Date of issuance: June 2, 2016.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 283 (Unit 1) and 279 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML16124A694; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–35 and NPF–52: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register****:* September 1, 2015 (80 FR 52804). The supplemental letter dated March 11, 2016, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 2, 2016.

No significant hazards consideration comments received: No.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: May 7, 2015, as supplemented by letter dated February 18, 2016.

Brief description of amendments: The amendments revised the emergency action level scheme for the McGuire Nuclear Station, Units 1 and 2, based on Nuclear Energy Institute (NEI) 99–01, Revision 6, "Development of Emergency Action Levels for Non-Passive Reactors."

Date of issuance: May 24, 2016.

Effective date: As of the date of issuance and shall be implemented within 180 days of issuance.

Amendment Nos.: 286 and 265. A publicly-available version is in ADAMS under Accession No. ML16083A208; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. NPF–9 and NPF–17: Amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register****:* June 23, 2015 (80 FR 35981). The supplemental letter dated February 18, 2016, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 24, 2016.

No significant hazards consideration comments received: No.

Duke Energy Carolinas, LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: June 23, 2015, as supplemented by letters dated February 4, 2016, and March 18, 2016.

Brief description of amendments: The amendments approved adoption of an emergency action level scheme based on Nuclear Energy Institute (NEI) 99–01, Revision 6, "Development of Emergency Action Levels for Non-Passive Reactors," for the Oconee Nuclear Station, Units 1, 2, and 3.

Date of issuance: May 26, 2016.

Effective date: As of the date of issuance and shall be implemented by March 31, 2017.

Amendment Nos.: 399 (Unit 1), 401 (Unit 2), and 400 (Unit 3). A publicly-available version is in ADAMS under Accession No. ML16109A093; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: The amendments revised the Renewed Facility Operating Licenses.

Date of initial notice in ***Federal Register****:* August 14, 2015 (80 FR 48922). This **Federal Register** notice was corrected on August 20, 2015 (80 FR 50663). The supplemental letters dated February 4, 2016, and March 18, 2016, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 26, 2016.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: June 29, 2015.

Brief description of amendment: The amendment revised the Cyber Security Plan (CSP) Milestone 8 full implementation date from June 30, 2016, to December 15, 2017, as set forth in the CSP Implementation Schedule and revised the associated license condition.

Date of issuance: May 25, 2016.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No: 210. A publicly-available version is in ADAMS under Accession No. ML16119A148; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–29: The amendment revised the Facility Operating License.

Date of initial notice in ***Federal Register****:* October 13, 2015 (80 FR 61481).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 25, 2016.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit 1 (NMP1), Oswego County, New York

Date of application for amendment: May 12, 2015.

Date of amendment request: May 12, 2015, as supplemented by letters dated October 22 and November 17, 2015.

Brief description of amendment: The amendment revised the technical specifications (TSs) for NMP1, by relocating specific surveillance requirement frequencies to a licensee-controlled program.

Date of issuance: May 31, 2016.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment No.: 222. A publicly-available version is in ADAMS under Accession No. ML16081A256; documents related to this amendment is listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–63: Amendment revised the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register****:* January 5, 2016 (81 FR 261).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 31, 2016.

No significant hazards consideration comments received: No.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: June 30, 2015, as supplemented by letter dated January 18, 2016.

Brief description of amendment: By order dated April 15, 2016, as published in the **Federal Register** on April 28, 2016 (81 FR 25448), the U.S. Nuclear Regulatory Commission approved a direct license transfer for Perry Nuclear Power Plant, Unit 1. The conforming amendment revised the facility operating license to reflect the transfer of the leased interests in Perry Nuclear Power Plant, Unit 1 from the Ohio Edison Company to FirstEnergy Nuclear Generation, LLC.

Date of issuance: May 31, 2016.

Effective date: As of the date of issuance and shall be implemented 30 days from the date of Issuance.

Amendment No.: 172. A publicly-available version is in ADAMS under Accession No. ML16130A536. The order is in ADAMS under Accession No. ML16078A092. Documents related to this amendment are listed in the Safety Evaluation enclosed with the order dated April 15, 2016.

Facility Operating License No. NPF–58: The amendment revised the Facility Operating License.

Date of initial notice in ***Federal Register****:* September 16, 2015 (80 FR 55656), as corrected on September 29, 2015 (80 FR 58508). The supplement dated January 18, 2016, contained clarifying information, did not expand the application beyond the scope of the notice as originally published in the **Federal Register**, and did not affect the applicability of the generic no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 15, 2016.

Florida Power & Light Company, Docket No. 50–335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application for amendment: July 15, 2014, as supplemented by letters dated October 23, 2015, and January 28, 2016.

Brief description of amendment: The amendment revised Technical Specification (TS) Surveillance Requirements for snubbers to conform to revisions to the Snubber Testing Program.

Date of Issuance: May 25, 2016.

Effective Date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 232. A publicly-available version is in ADAMS under Accession No. ML16124A383; documents related to this amendment are listed in the Safety Evaluation (SE) enclosed with the amendment.

Renewed Facility Operating License No. DPR–67: Amendment revised the Operating License and Technical Specifications.

Date of initial notice in ***Federal Register****:* September 15, 2015 (80 FR 55390). The supplemental letters dated October 23, 2015, and January 28, 2016, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in an SE dated May 25, 2016.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: May 6, 2015, as supplemented by letters dated October 8, 2015, and May 9, 2016.

Brief description of amendments: The amendments revised certain Technical Specification (TS) Required Actions to permit a Required Action end state of MODE 4 instead of MODE 5.

Date of issuance: May 31, 2016.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos.: 179 (Unit 1) and 160 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML16130A577; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. NPF–68 and NPF–81: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register****:* June 23, 2015 (80 FR 35983). The supplemental letters dated October 8, 2015, and May 9, 2016, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 31, 2016.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 9th day of June 2016.

For the Nuclear Regulatory Commission.

Anne T. Boland,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2016–14486 Filed 6–20–16; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2016–207; Order No. 3369]

Postal Rate Changes

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing announcing its intention to change in rates not of general applicability for Inbound Parcel Post (at Universal Postal Union (UPU) Rates). This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* June 23, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Contents of Filing
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IV. Ordering Paragraphs

I. Introduction

On June 14, 2016, the Postal Service filed notice announcing its intention to change rates not of general applicability for Inbound Parcel Post (at Universal Postal Union (UPU) Rates) effective July 1, 2016.[1]

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[1] Notice of the United States Postal Service of Filing Changes in Rates Not of General

Continued

II. Contents of Filing

To accompany its Notice, the Postal Service filed the following materials:

- Attachment 1—an application for non-public treatment of materials filed under seal;
- Attachment 2—a redacted copy of Governors' Decision No. 14–04;
- Attachment 3—a redacted copy of UPU International Bureau (IB) Circular 49, which contains the new rates;
- Attachment 4—a copy of the certification required under 39 CFR 3015.5(c)(2); and
- Attachment 5—documentation in support of inflation-linked adjustment for inward land rates.

Id., Attachments 1–5.

The Postal Service also filed supporting financial workpapers, an unredacted copy of Governors' Decision 14–04, an unredacted copy of the new rates, and related financial information under seal. *Id.*

In accordance with Order Nos. 2102[2] and 2310,[3] the Postal Service has: (1) Provided documentation supporting the inflation-linked adjustment as Attachment 5; (2) updated its advisory delivery information in a timely manner in the UPU's online compendium to justify bonus payments; (3) provided the date that the UPU advised the United States of the Inward Land Rate, and provided the calculation of the rate for the pertinent year, in the UPU IB Circular 49 as Attachment 3; (4) provided the special drawing rights (SDR) conversion rate of 1 SDR to $1.41474 U.S. dollars used for the cost coverage analysis; and (5) provided the estimated cost coverage for Inbound Parcel Post (at UPU rates) for the pertinent year. Notice at 3–4.

III. Commission Action

The Commission establishes Docket No. CP2016–207 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, and 39 CFR part 3015. Comments are due no later than June 23, 2016. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Katalin K. Clendenin to serve as Public Representative in this docket.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2016–207 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than June 23, 2016.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–14564 Filed 6–20–16; 8:45 am]

BILLING CODE 7710–FW–P

Applicability for Inbound Parcel Post (at UPU Rates) and Application for Non-Public Treatment, June 14, 2016, at 1–2 (Notice).

[2] Docket No. CP2014–52, Order Accepting Price Changes for Inbound Air Parcel Post (at UPU Rates), June 26, 2014, at 6 (Order No. 2102).

[3] Docket No. CP2015–24, Order Accepting Changes in Rates for Inbound Parcel Post (at UPU Rates), December 29, 2014, at 4 (Order No. 2310).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78081; File No. SR–FINRA–2015–036]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval to a Proposed Rule Change To Amend FINRA Rule 4210 (Margin Requirements) To Establish Margin Requirements for the TBA Market, as Modified by Amendment Nos. 1, 2, and 3

June 15, 2016.

I. Introduction

On October 6, 2015, Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend FINRA Rule 4210 (Margin Requirements) to establish margin requirements for covered agency transactions, also referred to, for purposes of this proposed rule change as the To Be Announced ("TBA") market.

The proposed rule change was published for comment in the **Federal Register** on October 20, 2015.[3] On November 10, 2015, FINRA extended the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to January 15, 2016.[4] The Commission received 109 comment letters, including 50 Type A comment letters and four Type B comment letters, in response to the proposal.[5] On January 13, 2016, FINRA responded to the comments and filed Amendment No. 1 to the proposal.[6] On January 14, 2016, the Commission issued an order instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act[7] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.[8] The Order Instituting Proceedings was published in the **Federal Register** on January 21, 2016.[9] The Commission received 23 comment letters in response to the Order Instituting Proceedings.[10] On March 21, 2016, FINRA responded to the comments and filed Amendment No. 2.[11] On April 11, 2016, the Commission noticed Amendment No. 2 to the proposed rule change to solicit comments from interested persons and designated a longer period for

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 76148 (Oct. 14, 2015), 80 FR 63603 (Oct. 20, 2015) (File No. SR–FINRA–2015–036) ("Notice").

[4] *See* Extension No. 1, dated Nov. 10, 2015. FINRA's extension of time for Commission action, *available at http://www.finra.org/sites/default/files/rule_filing_file/SR-FINRA-2015-036-extension-1.pdf.*

[5] The public comment file for the proposed rule change is on the Commission's Web site available at *https://www.sec.gov/comments/sr-finra-2015-036/finra2015036.shtml.* The Type A and B form letters generally contain language opposing the inclusion of multifamily housing and project loan securities within the scope of the proposed rule change, as originally proposed in the Notice. *See* Notice, *supra* note 3. The Commission staff also participated in numerous meetings and conference calls with certain commenters and other market participants.

[6] *See* Amendment No. 1 to the proposed rule change, dated Jan. 13, 2016 ("Amendment No. 1"), *available at http://www.finra.org/sites/default/files/rule_filing_file/SR-FINRA-2015-036-amendment-1.pdf.* FINRA's responses to comments received on the Notice and proposed amendments in response to those comments are included in Amendment No. 1.

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Exchange Act Release No. 76908 (Jan. 14, 2016), 81 FR 3532 (Jan. 21, 2016) (Order Instituting Proceedings To Determine Whether To Approve or Disapprove Proposed Rule Change to Amend FINRA Rule 4210 (Margin Requirements) to Establish Margin Requirements for the TBA Market, as Modified by Partial Amendment No. 1) ("Order Instituting Proceedings").

[9] *Id.*

[10] *See* comment file, *supra* note 5.

[11] *See* Amendment No. 2 to proposed rule change, dated Mar. 21, 2016 ("Amendment No. 2"), *available at http://www.finra.org/sites/default/files/rule_filing_file/SR-FINRA-2015-036-ammendment2.pdf.* FINRA's responses to comments received on the Order Instituting Proceedings and proposed amendments in response to those comments are included in Amendment No. 2.

Commission action on the proposal, until June 16, 2016.[12] The Commission received nine additional comment letters in response to the Amendment No. 2 Notice.[13] On May 26, 2016, FINRA responded to the comments and filed Amendment No. 3.[14] The Commission is publishing this notice and order to solicit comment on Amendment No. 3 and to approve the proposed rule change, as modified by Amendment Nos. 1, 2, and 3 on an accelerated basis.[15]

II. Description of the Proposed Rule Change[16]

FINRA proposed amendments to FINRA Rule 4210 (Margin Requirements) to establish requirements for: (1) TBA transactions,[17] inclusive of adjustable rate mortgage ("ARM") transactions; (2) Specified Pool Transactions;[18] and (3) transactions in collateralized mortgage obligations ("CMOs"),[19] issued in conformity with a program of an agency or Government-Sponsored Enterprise ("GSE"), with forward settlement dates, (collectively, "Covered Agency Transactions," also referred to, for purposes of this order, as the "TBA market").

FINRA stated that most trading of agency and GSE Mortgage-Backed Security ("MBS") takes place in the TBA market, which is characterized by transactions with forward settlements as long as several months past the trade date.[20] FINRA stated that historically, the TBA market is one of the few markets where a significant portion of activity is unmargined, thereby creating a potential risk arising from counterparty exposure. With a view to this gap between the TBA market versus other markets, FINRA took note of the TPMG recommended standards (the "TMPG best practices") regarding the margining of forward-settling agency MBS transactions.[21] FINRA stated that the TMPG best practices are recommendations and, as such, currently are not rule requirements. FINRA's existing margin requirements do not address the TBA market generally.

Accordingly, to establish margin requirements for Covered Agency Transactions, FINRA proposed to redesignate current paragraph (e)(2)(H) of FINRA Rule 4210 as new paragraph (e)(2)(I), to add new paragraph (e)(2)(H), to make conforming revisions to paragraphs (a)(13)(B)(i), (e)(2)(F), (e)(2)(G), (e)(2)(I), as redesignated by the rule change, and (f)(6), and to add to the rule new Supplementary Materials .02 through .05. The proposed rule change, as modified by Amendments Nos. 1 and 2, is described in further detail in sections A.-C. below. The changes proposed in Amendment No. 3 are described in section D. below.

A. Proposed FINRA Rule 4210(e)(2)(H) (Covered Agency Transactions)

The key requirements of the proposed rule change are set forth in new paragraph (e)(2)(H) of FINRA Rule 4210.

1. Definition of Covered Agency Transactions (Proposed FINRA Rule 4210(e)(2)(H)(i)c)

Proposed paragraph (e)(2)(H)(i)c. of the rule would define Covered Agency Transactions to mean:

- TBA transactions, as defined in FINRA Rule 6710(u), inclusive of ARM transactions, for which the difference between the trade date and contractual settlement date is greater than one business day;
- Specified Pool Transactions, as defined in FINRA Rule 6710(x), for which the difference between the trade date and contractual settlement date is greater than one business day; and
- CMOs, as defined in FINRA Rule 6710(dd), issued in conformity with a program of an agency, as defined in FINRA Rule 6710(k), or a GSE, as defined in FINRA Rule 6710(n), for which the difference between the trade date and contractual settlement date is greater than three business days.

2. Other Key Definitions Established by the Proposed Rule Change (Proposed FINRA Rule 4210(e)(2)(H)(i))

In addition to Covered Agency Transactions, the proposed rule change would define the following key terms for purposes of new paragraph (e)(2)(H) of Rule 4210:

- The term "bilateral transaction" means a Covered Agency Transaction that is not cleared through a registered clearing agency as defined in paragraph (f)(2)(A)(xxviii) of Rule 4210;
- The term "counterparty" means any person that enters into a Covered Agency Transaction with a member and

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[12] *See* Exchange Act Release No. 77579 (Apr. 11, 2016), 81 FR 22347 (Apr. 15, 2016) (Notice of Filing of Amendment No. 2 and Designation of a Longer Period for Commission Action on Proceedings to Determine Whether to Approve or Disapprove Proposed Rule Change to Amend FINRA Rule 4210 (Margin Requirements) to Establish Margin Requirements for the TBA Market, as Modified by Amendment Nos. 1 and 2) ("Amendment No. 2 Notice").

[13] *See* Letters from Robert Fine, Brean Capital, LLC, dated April 27, 2016 ("Brean Capital 4 Letter"); Mortgage Bankers Association, dated May 2, 2016 ("MBA 3 Letter"); Securities Industry and Financial Markets Association, dated May 2, 2016 ("SIFMA 3 Letter"); James M. Cain, Sutherland Asbill & Brennan LLP (on behalf of the banks of the Farm Credit System), dated May 2, 2016 ("Sutherland 3 Letter"); James M. Cain, Sutherland Asbill & Brennan LLP (on behalf of the Federal Home Loan Banks, dated May 02, 2016, ("Sutherland 4 Letter"); Chris Melton, Coastal Securities, dated May 2, 2016 ("Coastal 3 Letter"); Michael Nicholas, Bond Dealers of America, dated May 2, 2016 ("BDA 3 Letter"); Manisha Kimmel, Thomson Reuters, dated May 2, 2016 ("Thompson Reuters Letter"); and Bond Dealers of America, dated May 26, 2016 ("BDA 4 Letter"). *See also supra* note 5.

[14] *See* Amendment No. 3 to proposed rule change, dated May 26, 2016 ("Amendment No. 3"), *available at http://www.finra.org/sites/default/files/rule_filing_file/SR-FINRA-2015-036-amendment-3.pdf.* FINRA's responses to comments received on the Amendment No. 2 Notice and proposed amendments in response to comments to Amendment No. 2 are included in Amendment No. 3.

[15] The text of the proposed rule change, as modified by Amendment Nos. 1, 2, and 3 (the "Amendments") is available at the principal office of FINRA, on FINRA's Web site at *http://www.finra.org,* and at the Commission's Public Reference Room.

[16] The proposed rule change, as modified by Amendment Nos. 1 and 2, as described in this Item II.A.–C., is excerpted, in part, from the Notice and Amendment Nos. 1 and 2, which were substantially prepared by FINRA, and the Order Instituting Proceedings and Amendment No. 2 Notice. *See supra* notes 3, 8, and 12. *See also supra* notes 6 and 11. Amendment No. 3 is described in section II.D. below.

[17] *See* FINRA Rule 6710(u) (defining TBA to mean a transaction in an Agency Pass-Through Mortgage-Backed Security ("MBS") or a Small Business Administration ("SBA")-Backed Asset-Backed Security ("ABS") where the parties agree that the seller will deliver to the buyer a pool or pools of a specified face amount and meeting certain other criteria but the specific pool or pools to be delivered at settlement is not specified at the Time of Execution, and includes TBA transactions for good delivery and TBA transactions not for good delivery).

[18] FINRA Rule 6710(x) defines Specified Pool Transaction to mean a transaction in an Agency Pass-Through MBS or an SBA-Backed ABS requiring the delivery at settlement of a pool or pools that is identified by a unique pool identification number at the time of execution.

[19] FINRA Rule 6710(dd) defines CMO to mean a type of Securitized Product backed by Agency Pass-Through MBS, mortgage loans, certificates backed by project loans or construction loans, other types of MBS or assets derivative of MBS, structured in multiple classes or tranches with each class or tranche entitled to receive distributions of principal or interest according to the requirements adopted for the specific class or tranche, and includes a real estate mortgage investment conduit ("REMIC").

[20] *See, e.g.,* James Vickery & Joshua Wright, TBA Trading and Liquidity in the Agency MBS Market, Federal Reserve Bank of New York ("FRBNY") Economic Policy Review, May 2013, *available at https://www.newyorkfed.org/medialibrary/media/research/epr/2013/1212vick.pdf; see also* Commission's Staff Report, Enhancing Disclosure in the Mortgage-Backed Securities Markets, Jan. 2003, *available at https://www.sec.gov/news/studies/mortgagebacked.htm; see also* Treasury Market Practices Group ("TMPG"), Margining in Agency MBS Trading, Nov. 2012, *available at https://www.newyorkfed.org/medialibrary/microsites/tmpg/files/margining_tmpg_11142012.pdf* (the "TMPG Report"). The TMPG is a group of market professionals that participate in the TBA market and is sponsored by the FRBNY.

[21] *See* TMPG, Best Practices for Treasury, Agency, Debt, and Agency Mortgage-Backed Securities Markets, revised Feb. 2016, *available at https://www.newyorkfed.org/medialibrary/microsites/tmpg/files/TMPG_BestPractices_2_19_16.pdf.*

includes a "customer" as defined in paragraph (a)(3) of Rule 4210;

- The term "deficiency" means the amount of any required but uncollected maintenance margin and any required but uncollected mark to market loss;
- The term "gross open position" means, with respect to Covered Agency Transactions, the amount of the absolute dollar value of all contracts entered into by a counterparty, in all CUSIPs; provided, however, that such amount shall be computed net of any settled position of the counterparty held at the member and deliverable under one or more of the counterparty's contracts with the member and which the counterparty intends to deliver;
- The term "maintenance margin" means margin equal to two percent of the contract value of the net long or net short position, by CUSIP, with the counterparty;
- The term "mark to market loss" means the counterparty's loss resulting from marking a Covered Agency Transaction to the market;
- The term "mortgage banker" means an entity, however organized, that engages in the business of providing real estate financing collateralized by liens on such real estate;
- The term "round robin" trade means any transaction or transactions resulting in equal and offsetting positions by one customer with two separate dealers for the purpose of eliminating a turnaround delivery obligation by the customer; and
- The term "standby" means contracts that are put options that trade over-the-counter ("OTC"), as defined in paragraph (f)(2)(A)(xxvii) of Rule 4210, with initial and final confirmation procedures similar to those on forward transactions.

3. Requirements for Covered Agency Transactions (Proposed FINRA Rule 4210(e)(2)(H)(ii))

The specific requirements that would apply to Covered Agency Transactions are set forth in proposed paragraph (e)(2)(H)(ii). These requirements would address the types of counterparties that are subject to the proposed rule, risk limit determinations, specified exceptions from the proposed margin requirements, transactions with exempt accounts,[22] transactions with non-exempt accounts, the handling of de minimis transfer amounts, and the treatment of standbys.

Counterparties Subject to the Rule

Paragraph (e)(2)(H)(ii)a. of the proposed rule provides that all Covered Agency Transactions with any counterparty, regardless of the type of account to which booked, are subject to the provisions of paragraph (e)(2)(H) of the rule. However, paragraph (e)(2)(H)(ii)a.1. of the proposed rule provides that with respect to Covered Agency Transactions with any counterparty that is a Federal banking agency, as defined in 12 U.S.C. 1813(z) under the Federal Deposit Insurance Act, central bank, multinational central bank, foreign sovereign, multilateral development bank, or the Bank for International Settlements, a member may elect not to apply the margin requirements specified in paragraph (e)(2)(H) provided the member makes a written risk limit determination for each such counterparty that the member shall enforce pursuant to paragraph (e)(2)(H)(ii)b., as discussed below.

Paragraph (e)(2)(H)(ii)a.2. of the proposed rule provides that a member is not required to apply the margin requirements of paragraph (e)(2)(H) of the rule with respect to Covered Agency Transactions with a counterparty in multifamily housing securities or project loan program securities, provided that: (1) Such securities are issued in conformity with a program of an Agency, as defined in FINRA Rule 6710(k), or a GSE, as defined in FINRA Rule 6710(n), and are documented as Freddie Mac K Certificates, Fannie Mae Delegated Underwriting and Servicing bonds, or Ginnie Mae Construction Loan or Project Loan Certificates, as commonly known to the trade, or are such other multifamily housing securities or project loan program securities with substantially similar characteristics, issued in conformity with a program of an Agency or a Government-Sponsored Enterprise, as FINRA may designate by Regulatory Notice or similar communication; and (2) the member makes a written risk limit determination for each such counterparty that the member shall enforce pursuant to paragraph (e)(2)(H)(ii)b. of Rule 4210.[23]

Risk Limits[24]

Paragraph (e)(2)(H)(ii)b. of the rule provides that members that engage in Covered Agency Transactions with any counterparty shall make a determination in writing of a risk limit for each such counterparty that the member shall enforce. The rule provides that the risk limit determination shall be made by a designated credit risk officer or credit risk committee in accordance with the member's written risk policies and procedures. Further, in connection with risk limit determinations, the proposed rule establishes new Supplementary Material .05. The new Supplementary Material provides that, for purposes of any risk limit determination pursuant to paragraphs (e)(2)(F), (e)(2)(G) or (e)(2)(H) of the rule:

- ○ If a member engages in transactions with advisory clients of a registered investment adviser, the member may elect to make the risk limit determination at the investment adviser level, except with respect to any account or group of commonly controlled accounts whose assets managed by that investment adviser constitute more than 10 percent of the investment adviser's regulatory assets under management as reported on the investment adviser's most recent Form ADV;
- ○ Members of limited size and resources that do not have a credit risk officer or credit risk committee may designate an appropriately registered principal to make the risk limit determinations;
- ○ The member may base the risk limit determination on consideration of all products involved in the member's business with the counterparty, provided the member makes a daily record of the counterparty's risk limit usage; and
- ○ A member shall consider whether the margin required pursuant to the rule is adequate with respect to a particular counterparty account or all its counterparty accounts and, where appropriate, increase such requirements.

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[22] The term "exempt account" is defined under FINRA Rule 4210(a)(13). Broadly, an exempt account means a FINRA member, non-FINRA member registered broker-dealer, account that is a "designated account" under FINRA Rule 4210(a)(4) (specifically, a bank as defined under Section 3(a)(6) of the Exchange Act, a savings association as defined under Section 3(b) of the Federal Deposit Insurance Act, the deposits of which are insured by the Federal Deposit Insurance Corporation, an insurance company as defined under Section 2(a)(17) of the Investment Company Act, an investment company registered with the Commission under the Investment Company Act, a state or political subdivision thereof, or a pension plan or profit sharing plan subject to the Employee Retirement Income Security Act or of an agency of the United States or of a state or political subdivision thereof), and any person that has a net worth of at least $45 million and financial assets of at least $40 million for purposes of paragraphs (e)(2)(F) and (e)(2)(G) of the rule, as set forth under paragraph (a)(13)(B)(i) of Rule 4210, and meets specified conditions as set forth under paragraph (a)(13)(B)(ii). FINRA is proposing a conforming revision to paragraph (a)(13)(B)(i) so that the phrase "for purposes of paragraphs (e)(2)(F) and (e)(2)(G)" would read "for purposes of paragraphs (e)(2)(F), (e)(2)(G) and (e)(2)(H)."

[23] *See* Exhibit 4 and Exhibit 5 in Amendment No. 2. *See also supra* note 11.

[24] This section describes the proposed rule change prior to the proposed amendments to new Supplementary Material .05 in Amendment No. 3, which are described in section II.D. below.

Exceptions From the Proposed Margin Requirements: (1) Registered Clearing Agencies; (2) Gross Open Positions of $2.5 Million or Less in Aggregate[25]

Paragraph (e)(2)(H)(ii)c. provides that the margin requirements specified in paragraph (e)(2)(H) of the rule shall not apply to:

○ Covered Agency Transactions that are cleared through a registered clearing agency, as defined in FINRA Rule 4210(f)(2)(A)(xxviii), and are subject to the margin requirements of that clearing agency; and

○ any counterparty that has gross open positions in Covered Agency Transactions with the member amounting to $2.5 million or less in aggregate, if the original contractual settlement for all such transactions is in the month of the trade date for such transactions or in the month succeeding the trade date for such transactions and the counterparty regularly settles its Covered Agency Transactions on a Delivery Versus Payment ("DVP") basis or for cash; provided, however, that such exception from the margin requirements shall not apply to a counterparty that, in its transactions with the member, engages in dollar rolls, as defined in FINRA Rule 6710(z), or round robin trades, or that uses other financing techniques for its Covered Agency Transactions.

Transactions With Exempt Accounts

Paragraph (e)(2)(H)(ii)d. of the proposed rule provides that, on any net long or net short position, by CUSIP, resulting from bilateral transactions with a counterparty that is an exempt account, no maintenance margin shall be required. However, the rule provides that such transactions must be marked to the market daily and the member must collect any net mark to market loss, unless otherwise provided under paragraph (e)(2)(H)(ii)f. The rule provides that if the mark to market loss is not satisfied by the close of business on the next business day after the business day on which the mark to market loss arises, the member shall be required to deduct the amount of the mark to market loss from net capital as provided in Exchange Act Rule 15c3–1 until such time the mark to market loss is satisfied. The rule requires that if such mark to market loss is not satisfied within five business days from the date the loss was created, the member must promptly liquidate positions to satisfy the mark to market loss, unless FINRA has specifically granted the member additional time. Under the rule, members may treat mortgage bankers that use Covered Agency Transactions to hedge their pipeline of mortgage commitments as exempt accounts for purposes of paragraph (e)(2)(H) of this Rule.

Transactions With Non-Exempt Accounts

Paragraph (e)(2)(H)(ii)e. of the rule provides that, on any net long or net short position, by CUSIP, resulting from bilateral transactions with a counterparty that is not an exempt account, maintenance margin, plus any net mark to market loss on such transactions, shall be required margin, and the member shall collect the deficiency, as defined in paragraph (e)(2)(H)(i)d. of the rule, unless otherwise provided under paragraph (e)(2)(H)(ii)f. of the rule. The rule provides that if the deficiency is not satisfied by the close of business on the next business day after the business day on which the deficiency arises, the member shall be required to deduct the amount of the deficiency from net capital as provided in Exchange Act Rule 15c3–1 until such time the deficiency is satisfied. Further, the rule provides that if such deficiency is not satisfied within five business days from the date the deficiency was created, the member shall promptly liquidate positions to satisfy the deficiency, unless FINRA has specifically granted the member additional time.

The rule provides that no maintenance margin is required if the original contractual settlement for the Covered Agency Transaction is in the month of the trade date for such transaction or in the month succeeding the trade date for such transaction and the customer regularly settles its Covered Agency Transactions on a DVP basis or for cash; provided, however, that such exception from maintenance margin requirement shall not apply to a non-exempt account that, in its transactions with the member, engages in dollar rolls, as defined in FINRA Rule 6710(z), or round robin trades, as defined in proposed FINRA Rule 4210(e)(2)(H)(i)i., or that uses other financing techniques for its Covered Agency Transactions.

De Minimis Transfer Amounts

Paragraph (e)(2)(H)(ii)f. of the rule provides that any deficiency, as set forth in paragraph (e)(2)(H)(ii)e. of the rule, or mark to market losses, as set forth in paragraph (e)(2)(H)(ii)d. of the rule, with a single counterparty shall not give rise to any margin requirement, and as such need not be collected or charged to net capital, if the aggregate of such amounts with such counterparty does not exceed $250,000 ("the de minimis transfer amount").

Unrealized Profits; Standbys

Paragraph (e)(2)(H)(ii)g. of the rule provides that unrealized profits in one Covered Agency Transaction position may offset losses from other Covered Agency Transaction positions in the same counterparty's account and the amount of net unrealized profits may be used to reduce margin requirements.

B. Conforming Amendments to FINRA Rule 4210(e)(2)(F) (Transactions With Exempt Accounts Involving Certain "Good Faith" Securities) and FINRA Rule 4210(e)(2)(G) (Transactions With Exempt Accounts Involving Highly Rated Foreign Sovereign Debt Securities and Investment Grade Debt Securities)

The proposed rule change makes a number of revisions to paragraphs (e)(2)(F) and (e)(2)(G) of FINRA Rule 4210:[26]

- The proposed rule change revises the opening sentence of paragraph (e)(2)(F) to clarify that the paragraph's scope does not apply to Covered Agency Transactions as defined pursuant to new paragraph (e)(2)(H). Accordingly, as amended, paragraph (e)(2)(F) states: "Other than for Covered Agency Transactions as defined in paragraph (e)(2)(H) of this Rule . . ." For similar reasons, the proposed rule change revises paragraph (e)(2)(G) to clarify that the paragraph's scope does not apply to a position subject to new paragraph (e)(2)(H) in addition to paragraph (e)(2)(F) as the paragraph currently states. As amended, the parenthetical in the opening sentence of the paragraph states: "([O]ther than a position subject to paragraph (e)(2)(F) or (e)(2)(H) of this Rule)."
- Current, pre-revision paragraph (e)(2)(H)(i) provides that members must maintain a written risk analysis methodology for assessing the amount of credit extended to exempt accounts pursuant to paragraphs (e)(2)(F) and (e)(2)(G) of the rule which shall be made available to FINRA upon request. The proposed rule change places this language in paragraphs (e)(2)(F) and (e)(2)(G) and deletes it from its current location. Accordingly, FINRA proposes to move to paragraphs (e)(2)(F) and (e)(2)(G): "Members shall maintain a written risk analysis methodology for

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[25] This section describes the proposed rule change prior to the proposed amendment to increase the $2.5 million to $10.0 million in Amendment No. 3, which is described in section II.D. below.

[26] *See supra* notes 3, 8, and 12; *see also* Exhibit 5 in Amendment No. 2, text of proposed rule change, as modified by Amendment Nos. 1 and 2.

assessing the amount of credit extended to exempt accounts pursuant to [this paragraph], which shall be made available to FINRA upon request." Further, FINRA proposes to add to each: "The risk limit determination shall be made by a designated credit risk officer or credit risk committee in accordance with the member's written risk policies and procedures."

- The proposed rule change revises the references in paragraphs (e)(2)(F) and (e)(2)(G) to the limits on net capital deductions as set forth in current paragraph (e)(2)(H) to read "paragraph (e)(2)(I)" in conformity with that paragraph's redesignation pursuant to the rule change.

C. Redesignated Paragraph (e)(2)(I) (Limits on Net Capital Deductions)[27]

Under current paragraph (e)(2)(H) of FINRA Rule 4210, in brief, a member must provide prompt written notice to FINRA and is prohibited from entering into any new transactions that could increase the member's specified credit exposure if net capital deductions taken by the member as a result of marked to the market losses incurred under paragraphs (e)(2)(F) and (e)(2)(G), over a five day business period, exceed: (1) For a single account or group of commonly controlled accounts, five percent of the member's tentative net capital (as defined in Exchange Act Rule 15c3–1); or (2) for all accounts combined, 25 percent of the member's tentative net capital (again, as defined in Exchange Act Rule 15c3–1). As discussed above, the proposed rule change redesignates current paragraph (e)(2)(H) of the rule as paragraph (e)(2)(I), deletes current paragraph (e)(2)(H)(i), and makes conforming revisions to paragraph (e)(2)(I), as redesignated, for the purpose of clarifying that the provisions of that paragraph are meant to include Covered Agency Transactions as set forth in new paragraph (e)(2)(H). In addition, the proposed rule change clarifies that de minimis transfer amounts must be included toward the five percent and 25 percent thresholds as specified in the rule, as well as amounts pursuant to the specified exception under paragraph (e)(2)(H) for gross open positions of $2.5 million or less in aggregate.

Redesignated paragraph (e)(2)(I) of the rule provides that, in the event that the net capital deductions taken by a member as a result of deficiencies or marked to the market losses incurred under paragraphs (e)(2)(F) and (e)(2)(G) of the rule (exclusive of the percentage requirements established thereunder), plus any mark to market loss as set forth under paragraph (e)(2)(H)(ii)d. of the rule and any deficiency as set forth under paragraph (e)(2)(H)(ii)e. of the rule, and inclusive of all amounts excepted from margin requirements as set forth under paragraph (e)(2)(H)(ii)c.2. of the rule or any de minimis transfer amount as set forth under paragraph (e)(2)(H)(ii)f. of the rule, exceed:[28]

- For any one account or group of commonly controlled accounts, 5 percent of the member's tentative net capital (as such term is defined in Exchange Act Rule 15c3–1), or
- for all accounts combined, 25 percent of the member's tentative net capital (as such term is defined in Exchange Act Rule 15c3–1), and,
- such excess as calculated in paragraphs (e)(2)(I)(i)a. or b. of the rule continues to exist on the fifth business day after it was incurred,

the member must give prompt written notice to FINRA and shall not enter into any new transaction(s) subject to the provisions of paragraphs (e)(2)(F), (e)(2)(G) or (e)(2)(H) of the rule that would result in an increase in the amount of such excess under, as applicable, paragraph (e)(2)(I)(i) of the rule.

Implementation Date[29]

FINRA proposed that the risk limit determination requirements as set forth in paragraphs (e)(2)(F), (e)(2)(G) and (e)(2)(H) of Rule 4210 and proposed Supplementary Material .05 become effective six months from the date the proposed rule change is approved by the Commission.[30] FINRA proposed that the remainder of the proposed rule change become effective 18 months from the date the proposed rule change is approved by the Commission.[31]

D. Amendment No. 3

In response to comments the Commission received on the Amendment No. 2 Notice,[32] FINRA filed Amendment No. 3 to propose revisions to paragraph (e)(2)(H)(ii)c.2. and Supplementary Material .05(a)(1).[33] Specifically, in Amendment No. 3, FINRA proposes to increase the specified amount for the gross open position exception from $2.5 million or less in aggregate to $10 million and amend new Supplementary Material .05(a)(1) to revise the proposed language to delete the clause that reads "except with respect to any account or group of commonly controlled accounts whose assets managed by that investment adviser constitute more than 10 percent of the investment adviser's regulatory assets under management as reported on the investment adviser's most recent Form ADV." Finally, FINRA clarified which provisions related to the risk limit determinations in the proposed rule change would become effective with regard to the six month implementation timeframe after the proposed rule change is approved by the Commission.

1. Gross Open Position Exception and the $250,000 De Minimis Transfer Amount

As proposed in the Notice and modified by Amendment Nos. 1 and 2, the proposed rule would set forth an exception from the proposed margin requirements for counterparties whose gross open positions in Covered Agency Transactions with the FINRA member total $2.5 million or less in aggregate, subject to specified conditions.[34] The proposed rule also sets forth, for a single counterparty, a $250,000 de minimis transfer amount up to which margin need not be collected or charged to net capital, subject to specified conditions.

In response to the solicitation of comments on the Amendment No. 2 Notice,[35] and similar to comments received on the Notice and the Order Instituting Proceedings,[36] commenters suggested increasing the $2.5 million gross open position amount and the $250,000 de minimis transfer amount.[37] Two commenters recommended that the $2.5 million be increased to $10 million.[38] One commenter suggested that increasing the gross open position amount to $10 million would have "a material impact in reducing the level of automation and operations staff required to support TBA margining." [39] Another commenter stated that the $2.5 million threshold "will likely serve as a barrier to entry for a large number of participants that might otherwise enter the market and add to the market's liquidity, system stability and competition," and suggested an increase to $10 million.[40] With respect to the $250,000 de minimis transfer amount, one commenter suggested increasing it to $500,000.[41]

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[27] This section describes the proposed rule change prior to the proposed amendments in Amendment No. 3 including increasing the $2.5 million cash account exception to $10.0 million. The proposed changes in Amendment No. 3 are described in section II.D. below.

[28] *See supra* notes 3, 8, and 12; *see also* Exhibit 5 in Amendment No. 2, text of proposed rule change, as modified by Amendment Nos. 1 and 2.

[29] *See* section II.D. below for a clarification in Amendment No. 3 regarding the specific provisions related to the risk limit determinations that become effective six months after Commission approval of the proposed rule change. *See* Amendment No. 3, *supra* note 14.

[30] *See supra* notes 8 and 12.

[31] *Id.*

[32] *See supra* note 12. With the exception of the comments received on the gross open position exception, the $250,000 de minimis transfer amount, new Supplementary Material .05, and the clarification of which provisions of the proposed rule change become effective six months after Commission approval of the proposed rule change, FINRA's responses to comments received on the Amendment No. 2 Notice are discussed in section III. below.

[33] *See* Amendment No. 3, *supra* note 14.

[34] *See supra* notes 3, 8, and 12. *See also* description of proposed rule change in section II.A.-C. above.

[35] *See* Amendment No. 2 Notice, *supra* note 12.

[36] *See* discussion of comments received and FINRA's responses in the Order Instituting Proceedings and the Amendment No. 2 Notice, *supra* notes 8 and 12.

[37] *See* Brean Capital 4 Letter and Thomson Letter.

In response to these comments, with respect to the amount of the proposed gross open position exception, FINRA stated it has reconsidered and proposed to increase the specified amount from $2.5 million or less to $10 million or less.[42] FINRA stated that it has "taken note of the ongoing concerns expressed in comments and believes that increasing the amount to $10 million is consistent with the goal, as noted in the original filing, of ameliorating the rule's impact on business activity and addressing the concerns of smaller firms and customers." [43]

To estimate the likely impact of the proposed increase for the gross open position amount to $10 million, FINRA staff analyzed the dataset that was provided to FINRA by a major clearing broker and contained 5,201 open positions as of May 30, 2014, in 375 customer accounts from ten introducing broker-dealers.[44] FINRA stated that, in this dataset, only 66 accounts had gross open positions less than the originally proposed threshold of $2.5 million. FINRA stated, according to its analysis, increasing the gross open position exception to $10 million would include within the proposed exception an additional 150 accounts that had exposures greater than $2.5 million but less than or equal to $10 million. FINRA concluded that a greater number of smaller firms and customers would be subject to the gross open position exception for the proposed margin obligations, and, therefore, not subject to the margin requirements under the rule.[45]

Based on the sample of data available, FINRA stated that it estimated that neither the number of the accounts that would be required to post margin under the proposed rule, nor the estimated margin that would have to be posted for those accounts, would change due to the proposed increase in the gross open position amount.[46] FINRA stated this result is mainly due to the proposed $250,000 de minimis transfer amount, which already provides significant relief to customers with smaller aggregate positions. Therefore, to the extent the sample examined is representative of the activity in Covered Agency Transactions more generally, FINRA stated that it believes that the proposed change is not likely to have significant impact on the expected margin obligations of firms and customers with large gross open positions.[47] However, FINRA stated the proposed increase for the gross open position amount is expected to benefit smaller firms and customers, as the higher aggregate amount limits the costs to increasing business activity in Covered Agency Transactions without having to post margin under the proposed rule requirements for smaller firms.[48]

With respect to the $250,000 de minimis transfer amount, as FINRA noted in Amendment Nos. 1 and 2, FINRA stated that it believes that the proposed threshold is appropriate for the rule's purposes and does not propose to amend the requirement at this time.[49] However, FINRA stated that it will reconsider the requirement as appropriate when the Commission completes its rulemaking as to margin requirements for security-based swaps.[50]

2. Risk Limit Determinations

As proposed in the Notice, proposed Supplementary Material .05(a)(1) requires that, for purposes of any risk limit determination pursuant to paragraphs (e)(2)(F), (e)(2)(G), or (e)(2)(H) of Rule 4210, if a member engages in transactions with advisory clients of a registered investment adviser, the member may elect to make the risk limit determination at the investment adviser level, except with respect to any account or group of commonly controlled accounts whose assets managed by that investment adviser constitute more than 10 percent of the investment adviser's regulatory assets under management as reported on the investment adviser's most recent Form ADV.[51]

In response to the solicitation of comments on the Amendment No. 2 Notice,[52] and similar to comments received on the Order Instituting Proceedings,[53] one commenter expressed concern that FINRA members may have difficulty determining which accounts constitute more than 10 percent of an investment adviser's regulatory assets, because this "information is frequently maintained confidentially by an investment adviser due to privacy practices and regulations." [54] This commenter proffered rule language to address this issue.[55]

In response to comments received, FINRA stated that it has reconsidered the proposed requirements set forth in Supplementary Material .05(a)(1) and is revising the proposed language to delete the clause that reads "except with respect to any account or group of commonly controlled accounts whose assets managed by that investment adviser constitute more than 10 percent of the investment adviser's regulatory assets under management as reported on the investment adviser's most recent Form ADV." [56] As such, for purposes of any risk limit determination pursuant to paragraphs (e)(2)(F), (e)(2)(G) or (e)(2)(H) of Rule 4210, the proposed requirement under Supplementary Material .05(a)(1) as revised would read: "If a member engages in transactions with advisory clients of a registered investment adviser, the member may elect to make the risk limit determination at the investment adviser level; . . ." [57] FINRA stated that it is mindful of the concerns its members have expressed as to potential burdens under the rule, and believes the revision is appropriate. However, FINRA noted that it expects members to be mindful of their obligations as to making and enforcing risk limits under the rule. In making risk limit determinations as to advisory accounts, FINRA stated that it expects members to exercise appropriate diligence in understanding the extent of their risk and to craft their risk limit determinations accordingly.[58]

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[38] *Id.*

[39] *See* Thomson Letter.

[40] *See* Brean Capital 4 Letter.

[41] *See* Thomson Letter.

[42] *See* proposed paragraph (e)(2)(H)(ii)c.2. in Exhibit 4 in Amendment No. 3.

[43] *See* Amendment No. 3, *supra* note 14. *See also* Notice, *supra* note 3.

[44] *See* Amendment No. 3, *supra* note 14. FINRA made use of this dataset in the original filing. *See* Notice, *supra* note 3. The dataset provides account-level information.

[45] *See* Amendment No. 3, *supra* note 14.

[46] *Id.*

[47] *Id.*

[48] *See* Amendment No. 3, *supra* note 14. In other words, the increase of the gross open position amount from $2.5 million to $10.0 million may reduce costs for smaller counterparties, as well as potentially reduce compliance costs for smaller firms, without significantly impacting the overall amount of margin expected to be posted under the proposed rule by counterparties with large gross open positions.

[49] *See supra* notes 8 and 12. *See also* Notice, *supra* note 3.

[50] *See Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers; Proposed Rule,* Exchange Act Release No. 68071 (Oct. 18, 2012), 77 FR 70214 (Nov. 23, 2012).

[51] *See* Notice, *supra* note 3. *See also* description of proposed rule change in section II.A.–C. above.

[52] *See* Amendment No. 2 Notice, *supra* note 12.

[53] *See* Order Instituting Proceedings, *supra* note 8.

[54] *See* Brean Capital 4 Letter.

[55] *Id.*

[56] *See* Amendment No. 3, *supra* note 14.

[57] *See* Exhibit 4 in Amendment No. 3.

FINRA stated that it does not have data to assess the number of accounts, investment advisers or firms that might be impacted by this amendment. FINRA also stated that it anticipates that this change to the proposed rule will reduce the regulatory burden since it reduces the regulatory compliance costs associated with making the required risk limit determinations. FINRA further stated that the change does create the potential for firms to accept higher risk limits than they otherwise would, given that FINRA proposes to delete the 10 percent threshold. However, FINRA believes this additional risk is mitigated by the firms' obligations to make and enforce appropriate risk limits as described in section II.A.3. above.[59]

3. Implementation Period

In response to solicitation of comments on the Amendment No. 2 Notice,[60] and similar to comments received on the Notice and the Order Instituting Proceedings,[61] one commenter stated that a 24-month implementation period for the proposed rule should be permitted so as to permit "adequate interpretative guidance that is likely to impact system requirements."[62] This commenter also believed a 24-month period would be needed to implement the rule because of other significant regulatory initiatives, such as the T+2 migration and the new conflict of interest rule promulgated by the Department of Labor.[63]

In response to this comment, FINRA stated that it is mindful of the implementation challenges posed by various regulatory initiatives.[64] However, FINRA stated that it continues to believe that the rule change should become effective 18 months from the date the proposed rule change is approved by the Commission, except that the risk limit determination requirements as set forth in paragraphs (e)(2)(F), (e)(2)(G) and (e)(2)(H) of Rule 4210 and proposed Supplementary Material .05 would become effective six months from the date the proposed rule change is approved by the Commission.[65] FINRA also noted the rule change has been under consideration in the public domain for a period of more than two years. FINRA stated that it does not believe it would serve the public interest to extend the rule's implementation beyond 18 months once approved by the Commission.[66]

III. Summary of Comments Received on the Amendment No. 2 Notice and FINRA's Responses

As noted above, the Commission received 109 comment letters, including 50 Type A letters and four Type B letters, on the Notice; 23 comment letters on the Order Instituting Proceedings; and an additional nine comment letters on the Amendment No. 2 Notice.[67] The comments received on the Notice and FINRA's response to those comments are described in detail in the Order Instituting Proceedings.[68] The comments received on the Order Instituting Proceedings and FINRA's response to those comments are described in detail in the Amendment No. 2 Notice.[69] The nine comment letters received in response to the Amendment No. 2 Notice and FINRA's response to comments are summarized below.[70]

A. Scope of the Proposal

1. Multifamily and Project Loan Securities[71]

In the Notice, FINRA included multifamily and project loan securities within the scope of Covered Agency Transactions noting it intended that the scope of products to be consistent with the scope of products addressed by the TMPG best practices.[72] In response to the publication of the Notice, many commenters expressed concerns with FINRA including multifamily and project loan securities within the scope of the proposed margin requirements.[73] These commenters generally stated that the proposed rule change would impose undue burdens on participants in the multifamily housing securities market, that the multifamily housing securities market is small relative to the overall

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[58] *See* Amendment No. 3, *supra* note 14.

[59] *Id.*

[60] *See* Amendment No. 2 Notice, *supra* note 12.

[61] *See* Notice, and Order Instituting Proceedings, *supra* notes 3 and 8.

[62] *See* Thomson Letter.

[63] *See* Thomson Letter.

[64] *See* Amendment No. 3, *supra* note 14.

[65] In the interest of clarity, FINRA noted that the following provisions would become effective six months after the proposed rule change is approved by the Commission: (1) under paragraph (e)(2)(F) and paragraph (e)(2)(G), each as revised by the proposed rule change, the sentences that begin "Members shall maintain a written risk analysis methodology . . ." and "The risk limit determination shall be made . . ."; (2) under proposed paragraph (e)(2)(H), as set forth in the proposed rule change, proposed paragraph (e)(2)(H)(ii)b.; and (3) proposed Supplementary Material .05, as revised by Amendment No. 3. To help effectuate the application of these provisions, the proposed definitions of "counterparty," as set forth in proposed paragraph (e)(2)(H)(i)b., and "Covered Agency Transactions," as set forth in proposed paragraph (e)(2)(H)(i)c., would also become effective six months after the proposed rule change is approved by the Commission. To ensure clarity of cross-references within the rule, under paragraph (e)(2)(F) and paragraph (e)(2)(G), each as revised by the proposed rule change, the proposed phrase "subject to the limits provided in paragraph (e)(2)(I) of this Rule" in the final sentence of the first paragraph of paragraph (e)(2)(F) and paragraph (e)(2)(G) would become effective six months after the proposed rule change is approved by the Commission, as would: (1) The proposed header for new paragraph (e)(2)(H), which, as set forth in the rule change, would read "Covered Agency Transactions"; (2) under new paragraph (e)(2)(H), as set forth in the proposed rule change, the proposed designation "(i) Definitions" and the proposed designation "(ii) Margin Requirements for Covered Agency Transactions"; (3) the phrase "For purposes of paragraph (e)(2)(H) of this Rule:" Under proposed new paragraph (e)(2)(H)(i); and (4) the proposed redesignation of current paragraph (e)(2)(H) as new paragraph (e)(2)(I), except that the proposed revision to the header of paragraph (e)(2)(I) would become effective 18 months from the date the proposed rule change is approved by the Commission. *See* Exhibit 5 in Amendment No. 3.

[66] *See* Amendment No. 3, *supra* note 14.

[67] *See* discussion in section I. above. *See also* comment file, *supra* note 5.

[68] The topics covered by commenters in response to the Notice and in FINRA's response to those comments included: Multi-family and project loan securities; implementation time period; impact and scope of the proposal; maintenance margin; cash account exceptions; bilateral margining; $2.5 million gross open position amount and the $250,000 de minimis transfer amount; timing of margin collection and position liquidation; concentration limits; mortgage bankers; risk limit determinations; advisory clients of registered investment advisors; Federal Home Loan Banks and Farm Credit Banks and other comments. *See* Order Instituting Proceedings, *supra* note 8. *See also* Amendment No. 1, *supra* note 6.

[69] The topics covered by commenters in response to the Order Instituting Proceedings and in FINRA's response to those comments included: Multifamily and project loan securities; impact and costs of the proposal; scope of the proposal; creation of account types; maintenance margin; cash account exceptions; de minimis transfer amount; timing of margin collection and position liquidation; bilateral margining; third party custodians; exempt account treatment; third party providers; netting services; scope of FINRA's authority; and the implementation period. *See* Amendment No. 2 Notice, *supra* note 12. *See also* Amendment No. 2, *supra* note 11.

[70] *See* Amendment No. 3, *supra* note 14. Comments related to the increase in the gross open position exception to $10 million; the clarification of the treatment of the risk limit determinations for investment advisers in new Supplementary Material .05; and the clarification of specific rule language that takes effect six months after the date of Commission approval with regard to the risk limit determinations are addressed in section II.D. above.

[71] *See* Order Instituting Proceedings, *supra* note 8 and Amendment No. 2 Notice, *supra* note 12 (for a full discussion of the comments related to the proposed inclusion of multifamily housing securities within the scope of the rule, FINRA's responses to these comments, and FINRA's analysis of the impact of excluding multifamily housing securities from the scope of the rule).

[72] *See* Notice, *supra* note 3.

[73] *See* Order Instituting Proceedings, *supra* note 8.

TBA market, and that the regulatory benefits gained from any reduction of systemic risk and counterparty exposure would be outweighed by the harms caused to the market.[74] Commenters also stated that multifamily housing and project loan securities are not widely traded and often difficult to mark to the market.[75] In response to comments on the Notice, FINRA amended the proposed rule, in Amendment No. 1, to provide that the margin requirements would not apply to multifamily family housing and project loan securities, subject to the conditions described above.[76]

In response to the Order Instituting Proceedings, commenters expressed support for the proposed exception for multifamily and project loan securities as set forth in proposed paragraph (e)(2)(H)(ii)a.2. in Amendment No. 1.[77] Some commenters suggested FINRA clarify the intent of the proposed exception by changing "a member may elect not to apply the margin requirements" to "a member is not required to apply the margin requirements."[78] Other commenters expressed concern that, because of changes in nomenclature or other future action by the agencies or GSEs, some securities that have the characteristics of multifamily and project loan securities may not be documented as Freddie Mac K Certificates, Fannie Mae Delegated Underwriting and Servicing bonds, or Ginnie Mae Construction Loan or Project Loan Certificates, and may thereby inadvertently not be included within the proposed exception.[79] In response to these comments, FINRA amended the proposed rule, as modified by Amendment No. 1, in Amendment No. 2, to revise the phrase "a member may elect not to apply the margin requirements . . ." in paragraph (e)(2)(H)(ii)a.2. to read "a member is not required to apply the margin requirements . . ."[80] In Amendment No. 2, FINRA also proposed to revise proposed paragraph (e)(2)(H)(ii)a.2.A. to add the phrase "or are such other multifamily housing securities or project loan program securities with substantially similar characteristics, issued in conformity with a program of an Agency or a Government-Sponsored Enterprise, as FINRA may designate by Regulatory Notice or similar communication."[81]

The Commission received one comment on this topic in response to the solicitation of comments on the Amendment No. 2 Notice.[82] This commenter stated that it strongly supports the modifications in the Amendments as to multifamily housing securities and project loan program securities and that it appreciates FINRA's response to this issue.[83]

2. Covered Agency Transactions

Similar to comments received on the Notice and the Order Instituting Proceedings,[84] in response to the solicitation of comments on the Amendment No. 2 Notice, one commenter stated the proposal should not include Specified Pool Transactions because these products do not share the same risk as other Covered Agency Transactions.[85] This commenter stated that "FINRA has not provided any evidence that transactions in specified pools that do not settle in one business day represent the same class of risk as TBA transactions."[86] Another commenter stated that the proposed definition of Covered Agency Transactions should be revised to focus on long-dated settlements and that Specified Pool Transactions should not be included within the rule's scope.[87] This commenter proffered a definition of Covered Agency Transactions.[88]

As discussed in more detail in Amendment Nos. 1 and 2, in response to these comments, FINRA stated it does not believe there is a compelling reason to revise the proposed definition and settlement scope of Covered Agency Transactions, nor except Specified Pool Transactions from the definition of Covered Agency Transactions.[89] FINRA stated that it is mindful of the concerns of commenters, and is proposing in Amendment No. 3 to increase the $2.5 million gross open position exception to $10 million, which FINRA believes should benefit smaller firms and customers.[90]

B. General Comments on the Proposal and Its Impact

Similar to comments received on the Notice and the Order Instituting Proceedings,[91] in response to the solicitation of comments on the Amendment No. 2 Notice, FINRA stated that commenters expressed continued opposition to the proposal on account of its potential impact.[92] One commenter stated that it believes there is a basic disagreement between FINRA and the industry as the cost and difficulties of the proposal.[93] Another commenter stated that FINRA "has failed to address recommendations to simplify the implementation of the TBA Margining proposal in a manner consistent with its intent to address systemic concerns in the TBA market."[94] In a similar vein, one commenter stated that FINRA has not made any meaningful adjustments to the proposal and that it is not tailored to reduce counterparty risk without undue burdens on members and their clients.[95] In addition, this commenter stated that the proposal fundamentally differs from the TMPG best practices, requirements that apply to other fixed income products under current Rule 4210, and requirements that apply to swaps under other regulatory regimes.[96] This commenter also stated that the risk profile of Covered Agency Transactions is not greater than that of other fixed income transactions, but that Covered Agency Transactions are being treated under the proposal in a manner that is more burdensome than these other products.[97] This commenter further stated that, based on conversations with its members, FINRA's estimates of the cost of implementing the proposal are at the low end and that smaller firms will need to decide whether they can remain in business involving Covered Agency Transactions.[98] In a similar vein, another commenter stated that the proposal is anti-competitive and costly,[99] and a different commenter said that the proposal would negatively impact small-to medium-sized firms.[100] This commenter stated that FINRA's estimates of the costs of implementing the rule are unfair and biased.[101] One commenter stated the proposal would drive business away from introducing firms and toward larger firms.[102] This commenter also stated that it has observed instances where larger firms are using margin to gain competitive advantage.[103]

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[74] *Id.*

[75] *See* Order Instituting Proceedings, *supra* note 8.

[76] FINRA proposed in Amendment No. 1 to add to FINRA Rule 4210 new paragraph (e)(2)(H)(ii)a.2. to provide that a member may elect not to apply the margin requirements of paragraph (e)(2)(H) of the rule with respect to Covered Agency Transactions with a counterparty in multifamily housing securities or project loan program securities; *see* Exhibit 4 and Exhibit 5 in Amendment No. 1. Proposed Rule 4210(e)(2)(H)(ii)b. sets forth the proposed rule's requirements as to written risk limits. *See also* Order Instituting Proceedings, *supra* note 8.

[77] *See* Order Instituting Proceedings, and Amendment No. 2 Notice, *supra* notes 8 and 12.

[78] *Id. See also* comment file, *supra* note 5.

[79] *Id.*

[80] *See* Amendment No. 2 Notice, *supra* note 12; *see also,* Exhibit 4 and Exhibit 5 in Amendment No. 2.

[81] *Id.*

[82] *See* MBA 3 Letter.

[83] *Id.*

[84] *See supra* notes 3, 8, and 12.

[85] *See* Coastal 3 Letter.

[86] *Id.*

[87] *See* BDA 3 Letter.

[88] *Id.*

[89] *See* Amendment No. 3, *supra* note 14. *See also supra* notes 8 and 12.

[90] *See* Amendment No. 3, *supra* note 14. *See also* section II.D. above.

[91] *See supra* notes 3, 8, and 12.

[92] *See* SIFMA 3 Letter, Thomson Letter, Coastal 3 Letter, BDA 3 Letter, and Brean Capital 4 Letter.

[93] *See* SIFMA 3 Letter.

[94] *See* Thomson Letter.

[95] *See* SIFMA 3 Letter.

[96] *Id.*

[97] *Id.*

[98] *Id.*

[99] *See* Coastal 3 Letter.

In response to these comments, FINRA stated that it has actively sought input from the industry and other members of the public throughout the rulemaking process. In total, FINRA noted that there have been four opportunities to comment on the proposal, beginning with the comment on the proposal as originally published in *Regulatory Notice* 14–02.[104] FINRA stated that it engaged in discussions with industry participants and analyzed the potential economic impact of the proposal, including the potential costs of implementation.[105] In response to the input received from commenters, FINRA stated that it made several changes to the proposal, including the establishment of an exception for gross open positions for cash accounts, up to an aggregate specified amount, as specified by the rule,[106] and an exception, again for cash accounts as specified by the rule, from the rule's maintenance margin requirements.[107]

FINRA stated that these measures were expressly intended to address the concerns of smaller participants in the TBA market. FINRA stated that with such concerns in mind, it included the $250,000 de minimis transfer amount.[108] In arriving at this amount, FINRA stated it gave careful consideration to the needs of small firms that could otherwise potentially be at a disadvantage, if the de minimis amount were higher, vis-à-vis larger, more highly capitalized firms, while at the same time taking into account the need to reduce the risk of material credit exposure. In addition, FINRA stated that to address the rule's potential impact on mortgage bankers, the rule permits members to treat such market participants as exempt accounts, subject to specified conditions, and thereby not subject to the maintenance margin requirement.[109] FINRA further stated that to address concerns regarding the rule's potential impact on the market for multifamily housing securities and project loan program securities, FINRA revised the proposal to expressly provide that members are not required to apply the rule's margin requirements to such securities, subject to specified conditions.[110] FINRA stated that it does not believe that the commenters, in the most recent round of comment on the proposal in response to the Amendment No. 2 Notice, have raised new issues as to the rule's impact that have not been previously addressed. However, FINRA stated it is mindful of the concerns of market participants that believe smaller firms may be adversely affected by the proposal. To that end, FINRA stated that in Amendment No. 3, it proposed to increase the threshold exception from the proposed margin requirements[111] from $2.5 million to $10 million in gross open positions in Covered Agency Transactions with the member. Further, FINRA noted that, if approved by the Commission, it will monitor the proposal's impact when the new rule takes effect and, if the requirements prove overly onerous or otherwise are shown to negatively impact the market, will consider revisiting such requirements as may be necessary to mitigate the rule's impact.[112]

C. "Cash Account" Exceptions

As set forth more fully in the Notice,[113] and revised in this Amendment No. 3, the proposed margin requirements would not apply to any counterparty that has gross open positions[114] in Covered Agency Transactions with the FINRA member amounting to $10 million or less in aggregate, if the original contractual settlement for all such transactions is in the month of the trade date for such transactions or in the month succeeding the trade date for such transactions and the counterparty regularly settles its Covered Agency Transactions on a DVP basis or for cash. Similarly, a non-exempt account would be excepted from the rule's proposed two percent maintenance margin requirement, for any size transaction, if the original contractual settlement for the Covered Agency Transaction is in the month of the trade date for such transaction or in the month succeeding the trade date for such transaction and the customer regularly settles its Covered Agency Transactions on a DVP basis or for cash. The proposed rule uses parallel language with respect to both of these exceptions to provide that they are not available to a counterparty that, in its transactions with the member, engages in dollar rolls, as defined in FINRA Rule 6710(z),[115] or "round robin"[116] trades, or that uses other financing techniques for its Covered Agency Transactions. FINRA noted that these exceptions are intended to address the concerns relating to smaller customers engaging in a non-margined, cash account business.[117]

Similar to comments received on the Notice and the Order Instituting Proceedings,[118] in response to the Amendment No. 2 Notice, one commenter stated that it is concerned about implementing the cash account exceptions and that the proposed rule's provisions as to dollar rolls and round robin trades are not feasible to implement.[119] In response to the comment, FINRA noted that it previously addressed this issue in Amendment Nos. 1 and 2.[120] FINRA stated that it believes that dollar roll and round robin provisions are appropriate given that these are types of financing techniques.[121] As such, FINRA stated that it does not propose to modify the proposed requirements, other than, to increase the amount for the gross open position exception from $2.5 million or less to $10 million or less, as described above.

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[100] *See* BDA 3 Letter.

[101] *See* BDA 3 Letter.

[102] *See* Brean Capital 4 Letter.

[103] *Id.*

[104] *See* Amendment No. 3, *supra* note 14. *See also*, Regulatory Notice 14–02 (FINRA Requests Comment on Proposed Amendments to FINRA Rule 4210 for Transactions in the TBA Market) (January 2014). In the Notice, FINRA discussed comments received in response to Regulatory Notice 14–02. *See* Notice, *supra* note 3.

[105] *See* Amendment No. 3, *supra* note 14. *See also supra* notes 3, 8, and 12.

[106] *See* proposed paragraph (e)(2)(H)(ii)c.2. in Exhibit 4 and Exhibit 5 in Amendment No. 3. As discussed more fully in Amendment No. 3, in response to ongoing concerns expressed in comments about the rule's potential impact, FINRA is amending the exception from the proposed margin requirements for counterparties whose gross open positions in Covered Agency Transactions with the member amount to $2.5 million or less in aggregate, so as to increase the $2.5 million amount to $10 million. *See also* section II.D. above discussing proposed changes in Amendment No. 3.

[107] *See* Amendment No. 3, *supra* note 14. *See also* proposed paragraph (e)(2)(H)(ii)e. in Exhibit 5 in Amendment No. 3.

[108] *See* proposed paragraph (e)(2)(H)(ii)f. in Exhibit 5 in Amendment No. 3.

[109] *See* Amendment No. 3, *supra* note 14. *See also* proposed paragraph (e)(2)(H)(ii)d. and Supplementary Material .02 in Exhibit 5 in Amendment No. 3.

[110] *See* proposed paragraph (e)(2)(H)(ii)a.2. in Exhibit 5 in Amendment No. 3.

[111] In the interest of clarity, FINRA noted that the "proposed margin requirements" refers to the margin requirements as to Covered Agency Transactions as set forth in the original filing, as modified by Amendment Nos. 1, 2 and 3. Products or transactions that are outside the scope of Covered Agency Transactions are otherwise subject to the requirements of FINRA Rule 4210, as applicable.

[112] *See* Amendment No. 3, *supra* note 14.

[113] *See* Notice, *supra* note 3.

[114] Paragraph (e)(2)(H)(i)e. of the proposed rule defines "gross open position" to mean, with respect to Covered Agency Transactions, the amount of the absolute dollar value of all contracts entered into by a counterparty, in all CUSIPs; provided, however, that such amount shall be computed net of any settled position of the counterparty held at the member and deliverable under one or more of the counterparty's contracts with the member and which the counterparty intends to deliver. *See* Exhibit 5 in Amendment No. 3, *supra* note 14.

[115] FINRA Rule 6710(z) defines "dollar roll" to mean a simultaneous sale and purchase of an Agency Pass-Through MBS for different settlement dates, where the initial seller agrees to take delivery, upon settlement of the re-purchase transaction, of the same or substantially similar securities.

[116] Paragraph (e)(2)(H)(i)i. defines "round robin" trade to mean any transaction or transactions resulting in equal and offsetting positions by one customer with two separate dealers for the purpose of eliminating a turnaround delivery obligation by the customer. *See* Exhibit 5 in this Amendment No. 3.

[117] *See* Notice, *supra* note 3.

[118] *See supra* notes 3, 8, and 12.

D. Timing of Margin Collection and Position Liquidation

As set forth more fully in the Notice, and reiterated in the Order Instituting Proceedings and the Amendment No. 2 Notice,[122] FINRA noted that the proposed rule provides that, with respect to exempt accounts, if a mark to market loss, or, with respect to non-exempt accounts, a deficiency,[123] is not satisfied by the close of business on the next business day after the business day on which the mark to market loss or deficiency arises, the member must deduct the amount of the mark to market loss or deficiency from net capital as provided in Exchange Act Rule 15c3–1.[124] Further, FINRA stated that unless FINRA has granted a member additional time to collect the mark to market loss or deficiency, the member is required to liquidate positions if, with respect to exempt accounts, a mark to market loss is not satisfied within five business days, or, with respect to non-exempt accounts, a deficiency is not satisfied within such period.[125]

Similar to comments received on the Notice and the Order Instituting Proceedings,[126] in response to the solicitation of comment on the Amendment No. 2 Notice, one commenter stated that the proposed requirements are difficult to implement and are not compatible with existing systems and procedures for other fixed income products.[127] A different commenter stated that these differences reduce the ability to leverage the functionality of existing systems.[128] In response to these comments, FINRA stated that it does not propose to modify the proposed requirements. FINRA reiterated that the proposed language as to timing of margin collection is consistent with existing language under Rule 4210.[129] With respect to the liquidation requirement, FINRA stated that it believes that the five business day period, along with the opportunity to seek an extension of time when circumstances warrant, should provide sufficient time for members to resolve issues.[130]

E. Two-Way (Bilateral) Margin and Third Party Custodians

Similar to comments received on the Notice and the Order Instituting Proceedings, in the comments in response to the Amendment No. 2 Notice, some commenters stated that they oppose the proposed rule change because it does not require two-way margin.[131] These commenters stated that the TMPG best practices expressly calls for two-way margining to mitigate counterparty risk and requiring only one-way margin increases systemic risk.[132] These commenters also stated that the proposal fails to recognize the counterparty credit risk to non- FINRA members, and that the prudential regulators have adopted two-way margining in the context of requirements for swaps.[133] Finally, these commenters stated that providing for two- way margining and affording the counterparties the right to segregate, by means of third party custodian relationships, the margin they post to a FINRA member would provide heightened protection.[134]

In response to these comments, FINRA noted in the original filing, and Amendment Nos. 1 and 2, that though FINRA supports the use of two-way margining, FINRA does not propose to address such a requirement at this time as part of the proposed rule change.[135] With respect to third party custodial arrangements, FINRA stated that these are best addressed in a separate rulemaking or guidance, as appropriate. FINRA reiterated that it is mindful of the concerns that commenters have expressed, and will revisit two-way margining and related issues when the Commission completes its rulemaking as to margin requirements for security-based swaps.[136] FINRA noted that the proposed rule does not prevent parties from entering into agreements that provide for two-way margining should they wish to do so, provided those parties comply with all applicable requirements.

F. Scope of FINRA's Authority

Similar to comments received on the Notice and the Order Instituting Proceedings,[137] some commenters stated FINRA does not have authority to impose the proposed margin requirements, as it is not consistent with the intent of section 7 of the Exchange Act.[138] Some commenters cited the Senate Report in connection with the adoption of the Secondary Mortgage Market Enhancement Act of 1984 ("SMMEA") in support of this view.[139] As discussed in more detail in the Order Instituting Proceedings and Amendment No. 2 Notice, FINRA stated that it believes the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Exchange Act.[140] FINRA further stated that section 7 of the Exchange Act sets forth the parameters of the margin setting authority of the Federal Reserve Board and does not bar action by FINRA.[141]

G. Cleared Covered Agency Transactions

In response to the Amendment No. 2 Notice, one commenter expressed concern that the proposed rule would impose a double margin requirement on introducing firms that are already required to post margin pursuant to agreements with clearing firms.[142] This commenter proffered language to exempt such transactions from the rule's margin requirements.[143] Another commenter said that FINRA should coordinate with the Mortgage-Backed Securities Division ("MBSD") of Fixed

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[119] *See* Thomson Letter.

[120] *See supra* notes 8 and 12.

[121] *See* Amendment No. 3, *supra* note 14.

[122] *See supra* notes 3, 8, and 12.

[123] The term "deficiency" means the amount of any required but uncollected maintenance margin and any required but uncollected mark to market loss. *See* proposed FINRA Rule 4210(e)(2)(H)(i)d. in Exhibit 5 to Amendment No. 3.

[124] *See* Amendment No. 3, *supra* note 14.

[125] *See* Amendment No. 3, *supra* note 14. *See also* Notice, *supra* note 3.

[126] *See supra* notes 3, 8, and 12.

[127] *See* SIFMA 3 Letter.

[128] *See* Thomson Letter.

[129] *See* Amendment No. 3, *supra* note 14. *See also* FINRA Rule 4210(g)(10)(B).

[130] *See* Amendment No. 3, *supra* note 14.

[131] *See* Sutherland 3 Letter and Sutherland 4 Letter.

[132] *Id.*

[133] *Id.*

[134] *Id.*

[135] *See* Amendment No. 3, *supra* note 14.

[136] *See supra* note 50.

[137] *See supra* notes 3, 8, and 12.

[138] *See* BDA 3 Letter and Coastal 3 Letter; *see also supra* note 12.

[139] Pub. L. 98–440, 98 Stat. 1689 (1984).

[140] *See* Notice, *supra* note 3. Section 15A(b)(6) of the Exchange Act requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. *See also supra* notes 8 and 12. *See* Amendment No. 3, *supra* note 14.

[141] *See* Order Instituting Proceedings, *supra* note 8.

[142] *See* Brean Capital 3 Letter.

[143] *Id.*

Income Clearing Corporation to leverage MBSD's infrastructure.[144]

In response to these comments, FINRA stated that paragraph (e)(2)(H)(ii)c.1. of the proposed rule provides that the margin requirements of paragraph (e)(2)(H) do not apply to Covered Agency Transactions that are cleared through a registered clearing agency, as specified by the rule.[145] Furthermore, FIRNA stated it is not the rule's intent to regulate the commercial agreements of members, provided the rule's requirements are met. As such, FINRA stated that it does not propose to adopt the proffered language. FINRA noted, that the MBSD infrastructure is outside the scope of the proposed rule change, which, is not intended to apply the proposed margin requirements to Covered Agency Transactions cleared through a registered clearing agency.[146]

H. Trading Activity and Alternative Requirements

One commenter expressed a number of concerns with respect to trading activity under the proposed rule.[147] This commenter proffered language to exempt from the rule's margin requirements transactions that are offset by bilateral transactions with investment companies, to amend the position liquidation requirements to apply solely to TBA transactions (as opposed to the other types of Covered Agency Transactions), to exclude from the margin requirements any mark to market losses that are offset by gains on a cleared trade, and to prescribe required procedures as to position marking that would require reference to a "generally recognized source" and agreement of the parties.[148] Another commenter suggested the rule should permit members to take a capital charge as an alternative to collecting maintenance margin.[149]

In response to these comments, FINRA stated that it does not believe that the proffered language is consistent with the rule's purposes. FINRA also stated that it does not believe there is a public policy purpose in writing into the rule an exemption for offsets with investment companies or cleared trades, or to confine the liquidation requirements to TBA transactions only.[150] FINRA stated that it does not propose to incorporate the proffered language as to position marking given that, for purposes of the rule, this is a matter to be addressed by the parties' commercial relations. Further, FINRA stated that it does not propose to revise the rule to permit members to take a capital charge as an alternative to the collection of maintenance margin from counterparties, as FINRA believes this would not protect members from the risk of counterparty default.[151]

Moreover, FINRA stated that a capital charge in lieu of collecting maintenance margin could have the effect of disadvantaging small firms that are not in a position to absorb capital charges to the same extent as larger, more highly capitalized firms. As such, FINRA stated that it believes the rule as proposed puts all firms on an equal footing, leveling the playing field between large and small firms, since all firms can collect maintenance margin, but not all firms can absorb the same amount of capital charges.[152]

IV. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, the comments received, and FINRA's responses to the comments. Based on its review of the record, the Commission finds that the proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to a national securities association.[153] In particular, the Commission finds that the proposed rule change is consistent with section 15A(b)(6) of the Exchange Act, which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.[154]

As discussed above, the proposed rule change would amend FINRA Rule 4210 to establish margin requirements for the TBA market that are designed to "to reduce firm exposure to counterparty credit risk stemming from unsecured credit exposure that exists in the [TBA] market today." [155] The Commission agrees with FINRA that "[p]ermitting counterparties to participate in the TBA market without posting margin could facilitate increased leverage by customers, thereby potentially posing a risk to the broker-dealer extending credit and to the marketplace as a whole." [156] The proposed rule change also is expected to "enhance sound risk management practices" for FINRA members and their counterparties involved in the TBA market.[157] The stated goals of the proposal are consistent with the purposes of the Exchange Act and with FINRA's authority to impose margin requirements on its members.[158] The proposed rule change will serve to promote consistent and transparent margin requirements for the TBA market for FINRA members and their counterparties. Moreover, the proposed rule change will mitigate the risk that FINRA members will compete by implementing lower margin levels for Covered Agency Transactions and will help ensure that margin levels are set at sufficiently prudent levels across FINRA members.

As outlined above, the Commission received 141 comment letters on the proposed rule change, as well as FINRA responses to these comments.[159] The Commission notes that while commenters generally supported the goals of the proposed rule change "of addressing the counterparty credit risk and systemic risk posed to broker-dealers by TBA Transactions," [160] various commenters disagreed with FINRA over the proposed approach to achieve this goal and recommended changes to it.[161] Other commenters requested that the Commission disapprove the proposed rule change.[162] Finally, numerous commenters were concerned about the potential cost burden and competitive impact of the proposed rule change on FINRA members and other market participants.[163]

While the Commission appreciates the recommendations made by various commenters, and recognizes that new margin requirements for Covered Agency Transactions may result in increased costs for some FINRA members and their counterparties, the Commission believes that FINRA responded appropriately to their concerns. Taking into consideration the comments and FINRA's responses, the Commission believes that the proposal is consistent with the Exchange Act. In structuring the proposed rule, FINRA has reasonably balanced the goal of reducing firm exposure to counterparty credit risk stemming from unsecured credit exposures in the TBA market, with the potential costs and competitive impacts that may result from the proposed rule change. Specifically, the Commission notes that FINRA has incorporated a number of exceptions into its proposal to mitigate the impact of the proposed rule change, particularly on smaller firms and counterparties. For example, in Amendment No. 3, FINRA proposed to increase the exception from the margin requirements for any counterparty with gross open positions of $2.5 million or less in aggregate to $10 million to ameliorate the proposed rule change's impact on the TBA market and to address the concerns of how the rule would impact small firms and customers that do not take large positions in Covered Agency Transactions.[164]

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[144] *See* Thomson Letter.

[145] *See* Exhibit 5 in Amendment No. 3.

[146] *See* Amendment No. 3, *supra* note 14.

[147] *See* Brean Capital 3 Letter.

[148] *Id.*

[149] *See* Thomson Letter.

[150] *See* Amendment No. 3, *supra* note 14.

[151] *Id.*

[152] *See* Amendment No. 3, *supra* note 14.

[153] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[154] 15 U.S.C. 78*o*–3(b)(6).

[155] *See* Notice, *supra* note 3.

[156] *Id.*

[157] *Id.*

[158] *See, e.g.,* 12 CFR 220.1(b)(2).

[159] *See* comment file *supra* note 5. The 141 comment letters include the 54 Type A and B form letters that generally contain language opposing the inclusion of multifamily housing and project loan securities within the scope of the proposed rule change, as originally published in the Notice, and prior to the exclusion of these types of securities from the rule, as modified in Amendment Nos. 1 and 2.

[160] *See, e.g.,* SIFMA 3 Letter.

[161] *See* comment file *supra* note 5.

[162] *Id.*

[163] *See supra* note 5. *See also* Notice, Order Instituting Proceedings, Amendment No. 2 Notice, and Amendment No. 3, *supra* notes 3, 8, 12, and 14.

In addition, FINRA has proposed an additional cash account exception available to FINRA members that would not require them to collect maintenance margin from counterparties that are non-exempt accounts, as well as a $250,000 de minimis transfer amount that would mitigate the need for counterparties to transfer small amounts of margin to a FINRA member. Moreover, under the proposed rule change, mortgage bankers may be treated as exempt accounts under specified conditions, resulting in these counterparties being subject only to the variation margin requirements under the proposal. In Amendment No. 3, FINRA also proposed to simplify new Supplementary Material .05 related to risk limit determinations at the investment adviser level to reduce regulatory burdens.[165] These provisions, in totality, should lessen the competitive impact and compliance costs of the rule on FINRA members and their counterparties, while reducing the risk of uncollateralized credit exposures arising from Covered Agency Transactions given the size of the TBA market.[166] Finally, the Commission notes that FINRA has stated that it will monitor the proposed rule's impact and, if the requirements prove overly onerous or otherwise are shown to negatively impact the TBA market, it will consider modifications to mitigate the rule's impact.[167]

The Commission acknowledges that the requirements of FINRA's proposed rule change are more prescriptive than the TMPG best practices, including, for example, the proposed maintenance margin requirement for non-exempt accounts, as well as the timing of margin collection and mandatory liquidation requirements.[168] The Commission notes FINRA's approach is generally consistent with the margining of other securities transactions under Rule 4210.[169] For example, securities transactions margined under FINRA Rule 4210 are generally subject to maintenance margin, which is a "mainstay of regimes in the securities industry."[170] With respect to the maintenance margin requirement, the Commission agrees with FINRA that most accounts at broker-dealers engaging in Covered Agency Transactions likely will be exempt accounts, and therefore, only subject to the variation margin requirements under the rule.[171] In the alternative, where maintenance margin requirements apply, FINRA has proposed specific exceptions which should mitigate the impact on a counterparty, including the cash account exceptions and the $250,000 de minimis transfer amount. Finally, with respect to the proposed mandatory five-business day liquidation time period, FINRA members may request and receive extensions from FINRA under its Regulatory Extension System and FINRA has stated it "will consider additional guidance as needed."[172] The Commission believes these proposed requirements are consistent with the Exchange Act and are appropriate "in view of the potential counterparty risk in the TBA market."[173]

FINRA's stated purposes for proposing margin requirements on Covered Agency Transactions is consistent with other regulatory efforts that have sought to address the risk of uncollateralized credit exposure arising in different types of bilateral credit transactions following the financial crisis, in particular, after the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.[174] The Commission agrees with FINRA that imposing mandatory margin requirements on FINRA members transacting business with counterparties in the TBA market addresses a gap between margining in the TBA market and margin practices and regulatory developments in other markets.[175] Margin collateral collected by a FINRA member may mitigate a broker-dealer's financial losses in the event of a counterparty default, and, in turn, serve to protect the broker-dealer's other customers. Consequently, the Commission believes that the proposed rule change would further the purposes of the Exchange Act as it is reasonably designed to protect investors and the public interest.[176]

The Commission further believes that excluding multifamily and project loan program securities from the scope of the rule, if a FINRA member makes a written risk limit determination for a counterparty trading in such securities, is appropriate. While included in the scope of the TPMG best practices, these types of securities only are a small part of the overall TBA market, and may be difficult to mark to market because they are often backed by a single project or loan.[177] Further, existing safeguards in the multi-family housing market, including the provision of good faith deposits by the borrower, may serve to mitigate the counterparty credit risk to a FINRA member with respect to a counterparty engaging trading in multifamily and project loan securities.[178]

In addition to the exclusions for multifamily housing and project loan securities, the Commission notes that numerous commenters believed other product types should be excluded from the scope of the rule, or that FINRA should revise the definition of Covered Agency Transaction to focus on long-dated settlements.[179] The Commission agrees with FINRA that excluding additional products from the rule or modifying the settlement dates in the definition of Covered Agency Transactions potentially may "undermine the effectiveness of the proposal" if counterparties are permitted to maintain unsecured credit exposures on these positions.[180] Furthermore, as described above, FINRA's rationale for excluding multifamily and project loan securities is distinct from the issues raised by commenters with respect to the other suggested modifications to the definition of Covered Agency Transaction under the rule, due, in part, to the unique characteristics of multi-family housing and project loan securities.[181] The Commission believes that FINRA's proposed approach to establish a $10 million or less in aggregate per counterparty exception is appropriate in that it will continue to subject products with forward settlement dates to the rule's margin requirements, while reducing potential burdens on smaller FINRA member firms and counterparties that do not take on large positions in Covered Agency Transactions.

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[164] *See* Amendment No. 3, *supra* note 14.

[165] *See* Amendment No. 3, *supra* note 14, and discussion in Section II.D. above.

[166] *See* Notice, *supra* note 3.

[167] *See* Amendment No. 3, *supra* note 14, and discussion in Section II.D. above.

[168] *See* TPMG best practices, *supra* note 21. The proposed rule provides for specific times by which margin must be collected, or an account liquidated unless FINRA specifically grants the member additional time (for the account liquidation purposes only).

[169] *See* FINRA Rule 4210.

[170] *See* FINRA Rule 4210. *See also* Amendment No. 2 Notice, *supra* note 12.

[171] *See* Notice, *supra* note 3.

[172] *See* Amendment No. 2 Notice, *supra* note 12.

[173] *See* Order Instituting Proceedings, *supra* note 8.

[174] *See* Public Law 111–203, 124 Stat. 1376 (2010). *See also* TPMG best practices, *supra* note 21; *see also Capital, Margin, and Segregation Requirements for Security- Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers*, Exchange Act Release No. 68071 (Oct. 18, 2012), 77 FR 70213, 70258 (Nov. 23, 2012) ("The Dodd-Frank Act seeks to address the risk of uncollateralized credit exposure arising from OTC derivatives by, among other things, mandating margin requirements for non-cleared security-based swaps and swaps.")

[175] *See* Notice, *supra* note 3.

[176] *See* 15 U.S.C. 78o-3(b)(6).

[177] *See* Order Instituting Proceedings, *supra* note 8. Commenters provided data with respect to the multifamily housing securities market in comparison to the overall TBA market, and FINRA conducted an analysis of transactional data. *Id.*

[178] *Id.*

The Commission acknowledges the comments raised by market participants that the scope of the TPMG's best practices includes two-way variation margin, in contrast to the proposed rule change which would require FINRA members to collect margin from their counterparties (without a corresponding posting requirement). Current FINRA Rule 4210 is a collection rule and does not require broker-dealers to post margin to their customers for securities transactions margined under the rule.[182] The Commission notes that the broker-dealer margin requirements have been in place for many years.[183] In its response to comments, FINRA stated it supports two-way margining but does not propose to address two-way margining as part of the proposed rule change.[184] However, FINRA indicated it would re-examine this issue "when the Commission completes its rulemaking as to margin requirements for security-based swaps." [185] The Commission believes FINRA's approach is appropriate.[186]

The Commission believes that FINRA's proposed implementation schedule is appropriate and consistent with the requirements of the Exchange Act. The Commission notes that FINRA proposed to extend the implementation timeframe in Amendment No. 1 in response to comments that considerable operational and systems work will be needed to comply with the proposed rule change.[187] The Commission believes that the proposed six-month timeframe for the risk limit determination requirements [188] and 18-month timeframe for implementation of the remainder of the rule should provide sufficient time for FINRA firms to comply with the rule's requirements.[189]

In conclusion, the Commission believes that the proposal will help protect investors and the public interest by establishing margin requirements for the TBA market to reduce the risk that unsecured credit exposures could potentially lead to losses by FINRA members, and by enhancing risk management practices at FINRA members that participate in the TBA market. The Commission also believes that FINRA gave due consideration to the proposal and met the requirements of the Exchange Act. For these reasons, the Commission finds that the proposed rule change is consistent with the Exchange Act and the rules and regulations thereunder.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 3, is consistent with the Exchange Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2015–036 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2015–036. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2015–036 and should be submitted on or before July 12, 2016.

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[179] *See* comment file *supra* note 5. *See also* Order Instituting Proceedings, *supra* note 8.

[180] *See* Notice, *supra* note 3.

[181] *See* Amendment No. 2 Notice, *supra* note 12.

[182] *See* FINRA Rule 4210.

[183] *See Capital, Margin, and Segregation Requirements for Security- Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers,* Exchange Act Release No. 68071 (Oct. 18, 2012), 77 FR 70213, 70259 (Nov. 23, 2012) ("In the securities markets, margin rules have been set by relevant regulatory authorities (the Federal Reserve and the SROs) since the 1930s.")

[184] *See* Amendment No. 3, *supra* note 14.

[185] *See* Amendment No. 3, *supra* note 14. *See also Capital, Margin, and Segregation Requirements for Security- Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers,* Exchange Act Release No. 68071 (Oct. 18, 2012), 77 FR 70213 (Nov. 23, 2012)

[186] FINRA also noted "that the proposed rule does not prevent parties from entering into agreements that provide for two-way margining should they wish to do so, provided those parties comply with all applicable requirements." *See* Amendment No. 3, *supra* note 14.

[187] *See* Order Instituting Proceedings, *supra* note 8.

[188] *See supra* note 65 (clarifying the specific rule provisions related to the risk limit determinations that become effective six months after Commission approval of the proposed rule change).

[189] The Commission notes that this proposal has been noticed for comment three times. *See* Notice, Order Instituting Proceedings, and Amendment No. 2 Notice, *supra* notes 3, 8, and 12. In addition, FINRA originally sought comment on proposal prior to filing it with the Commission in in 2014 through publication of a Regulatory Notice. *See* Regulatory Notice 14–02 (FINRA Requests Comment on Proposed Amendments to FINRA Rule 4210 for Transactions in the TBA Market) (Jan. 2014).

VI. Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3

The Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act, to approve the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, prior to the 30th day after the date of publication of Amendment No. 3 in the **Federal Register**. FINRA proposed the changes in Amendment No. 3 in response to issues raised by commenters.[190]

More specifically, Amendment No. 3 revised the proposal to increase the gross open position exception from $2.5 million or less to $10 million or less. Second, FINRA revised the proposed language in new Supplementary Material .05(a)(1) to delete the clause "except with respect to any account or group of commonly controlled accounts whose assets managed by that investment adviser constitute more than 10 percent of the investment adviser's regulatory assets under management as reported on the investment adviser's most recent Form ADV." The Commission believes that the changes proposed in Amendment No. 3 do not raise any novel regulatory issues because they provide greater clarity with respect to the application of the proposed rule change and will reduce the regulatory burden on FINRA members, particularly smaller firms and counterparties. Therefore, the Commission finds that Amendment No. 3 is consistent with the protection of investors and the public interest.

Amendment No. 3 also clarified which paragraphs related to the required written risk limit determinations become effective six months after Commission approval of the proposed rule change. The Commission believes that these are technical clarifications and do not change the substance of the proposed implementation timeframe as proposed in the Order Instituting Proceedings and the Amendment No. 2 Notice.

Accordingly, the Commission finds good cause pursuant to Section 19(b)(2) of the Exchange Act,[191] for approving the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, on an accelerated basis.

VII. Conclusion

IT IS THEREFORE ORDERED, pursuant to section 19(b)(2) of the Exchange Act,[192] that the proposed rule change, as modified by Amendment Nos. 1, 2, and 3 (SR–FINRA–2015–036) be, and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[193]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14561 Filed 6–20–16; 8:45 am]

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[190] *See* Amendment No. 3, *supra* note 14.

[191] 15 U.S.C. 78s(b)(2).

[192] 15 U.S.C. 78s(b)(2).

[193] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78078; File No. SR–NASDAQ–2016–064]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Relating to the Listing and Trading of the Shares of the First Trust Strategic Mortgage REIT ETF of First Trust Exchange-Traded Fund VIII

June 15, 2016.

On May 3, 2016, The NASDAQ Stock Market LLC ("Nasdaq") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the First Trust Strategic Mortgage REIT ETF of First Trust Exchange-Traded Fund VIII under Nasdaq Rule 5735. The proposed rule change was published for comment in the **Federal Register** on May 12, 2016.[3] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is June 26, 2016. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to section 19(b)(2) of the Act,[5] designates August 10, 2016, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NASDAQ–2016–064).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14558 Filed 6–20–16; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77781 (May 6, 2016), 81 FR 29590 ("Notice").

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78080; File No. SR–MIAX–2016–16]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 510 To Extend the Penny Pilot Program Until December 31, 2016

June 15, 2016.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 13, 2016, Miami International Securities Exchange LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 510, Interpretations and Policies .01 to extend the pilot program for the quoting and trading of certain options in pennies (the "Penny Pilot Program").

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing*, at MIAX's principal office, and at the Commission's Public Reference Room.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is a participant in an industry-wide pilot program that provides for the quoting and trading of certain option classes in penny increments (the "Penny Pilot Program" or "Program"). The Penny Pilot Program allows the quoting and trading of certain option classes in minimum increments of $0.01 for all series in such option classes with a price of less than $3.00; and in minimum increments of $0.05 for all series in such option classes with a price of $3.00 or higher. Options overlying the PowerShares QQQ™ ("QQQ"), SPDR® S&P 500® ETF ("SPY"), and iShares® Russell 2000 ETF ("IWM"), however, are quoted and traded in minimum increments of $0.01 for all series regardless of the price. The Penny Pilot Program was initiated at the then existing option exchanges in January 2007[3] and currently includes more than 300 of the most active option classes. The Penny Pilot Program is currently scheduled to expire on June 30, 2016.[4] The purpose of the proposed rule change is to extend the Penny Pilot Program in its current format through December 31, 2016.

In addition to the extension of the Penny Pilot Program through December 31, 2016, the Exchange proposes to extend one other date in the Rule. Currently, Interpretations and Policies .01 states that the Exchange will replace any Penny Pilot issues that have been delisted with the next most actively traded multiply listed option classes that are not yet included in the Penny Pilot Program, and that the replacement issues will be selected based on trading activity in the previous six months. Such option classes will be added to the Penny Pilot Program on the second trading day following July 1, 2015, and January 1, 2016.[5] Because these dates have expired and the Exchange intends to continue this practice for the duration of the Penny Pilot Program, the Exchange is proposing to amend the Rule to reflect that such option classes will be added to the Penny Pilot Program on the second trading day following July 1, 2016.

The purpose of this provision is to reflect the new date on which replacement issues may be added to the Penny Pilot Program.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the proposed rule change, which extends the Penny Pilot Program for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace, facilitating investor protection, and fostering a competitive environment. In addition, consistent with previous practices, the Exchange believes the other options exchanges will be filing similar extensions of the Penny Pilot Program.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[10] normally does not become operative prior to 30 days after the date of the filing.[11] However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the

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[3] *See* Securities Exchange Act Release Nos. 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007) (SR–CBOE–2006–92); 54603 (October 16, 2006), 72 FR 4754 (February 1, 2007) (SR–ISE–2006–62); 54688 (November 2, 2006), 71 FR 239 (December 13, 2006) (SR–Phlx–2006–74); 54590 (October 12, 2006), 71 FR 201 (October 18, 2006) (SR–NYSEArca–2006–73); and 54741 (November 9, 2006), 71 FR 223 (November 20, 2006) (SR–Amex–2006–106).

[4] *See* Securities Exchange Act Release No. 75284 (June 24, 2015), 78 FR 37349 (June 30, 2015) (SR–MIAX–2015–40)(extending the Penny Pilot Program from June 30, 2015, to June 30, 2016).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.*, June) is not used for purposes of the six-month analysis. For example, a replacement added on the second trading day following July 1, 2016, will be identified based on trading activity from December 1, 2015, through May 31, 2016.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6)(iii).

Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[13]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MIAX–2016–16 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2016–16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–MIAX–2016–16 and should be submitted on or before July 12, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14560 Filed 6–20–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78076; File No. SR–NYSEARCA–2016–86]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule

June 15, 2016.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 6, 2016, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule. The proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend the Fee Schedule to introduce a new alternative for qualifying for the Customer and Professional Customer Incentive Program, as described below. The Exchange proposes to implement the fee change effective June 6, 2016.

The Exchange is proposing to introduce a new tier to the Incentive Program, which provides OTP Holders and OTP Firms (collectively, "OTPs") several alternatives to earn additional posting credits ranging from $0.01 to $0.05. Specifically, the Exchange proposes to add a new alternative that would enable OTPs to earn a $0.03 credit if they achieve at least 1.50% of Total Industry Customer equity and ETF option ADV ("TCADV") from Customer and Professional Customer Posted Orders in both Penny Pilot and non-Penny Pilot Issues, Plus Executed ADV of 0.10% of U.S. Equity Market Share Posted and Executed on NYSE Arca Equity Market. The Exchange believes this new credit would provide additional incentive to direct Customer and Professional Customer order flow to the Exchange, which benefits all market participants through increased liquidity and enhanced price discovery. Moreover, the Exchange believes that the proposed new alternative to qualify for the Customer Incentive Program is reasonable because it is designed to continue to bring additional posted order flow to NYSE Arca Equities, so as to provide additional opportunities for all ETP Holders to trade on NYSE Arca Equities.

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[13] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(2)(B).

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[4] in general, and furthers the objectives of sections 6(b)(4) and (5) of the Act,[5] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange also believes that the proposed new alternative to the Incentive Program is reasonable, equitable, and not unfairly discriminatory because the incentive would be available to all OTPs that execute posted Customer and Professional Customer orders on the Exchange on an equal and non-discriminatory basis, in particular because it provides alternative means of achieving a posting credit. The Exchange believes that providing methods for achieving the credits based on posted Customer and Professional Customer Executions in both Penny Pilot and non-Penny Pilot issues is equitable and not unfairly discriminatory because it would continue to result in more OTPs qualifying for the credits and therefore reducing their overall transaction costs on the Exchange. Moreover, the Exchange believes the proposed modification would provide an additional incentive for OTPs to direct Customer and Professional Customer order flow to the Exchange, which benefits all market participants through increased liquidity and enhanced price discovery.

Furthermore, the Exchange also believes that the proposed modification that relates to executed ADV of 0.10% of U.S. Equity Market Share Posted and Executed on NYSE Arca Equity Market is equitable and not unfairly discriminatory because it is designed to bring additional order flow to NYSE Arca Equities, which increases liquidity on NYSE Arca Equities to the benefit of its market participants.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,[6] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change would continue to encourage competition by attracting additional liquidity to the Exchange, which would continue to make the Exchange a more competitive venue for, among other things, order execution and price discovery. The Exchange does not believe that the proposed change will impair the ability of any market participants or competing order execution venues to maintain their competitive standing in the financial markets. Further, the proposed alternative credit under the Incentive Program would provide OTP Holders and OTP Firms an additional means of achieving a credit and, likewise, may allow those OTP Holders and OTP Firms that, to date, have been unable to achieve a credit under the Incentive Program to achieve the proposed credit.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A)[7] of the Act and subparagraph (f)(2) of Rule 19b–4[8] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under section 19(b)(2)(B)[9] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2016–86 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2016–86. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of

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[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4) and (5).

[6] 15 U.S.C. 78f(b)(8).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

[9] 15 U.S.C. 78s(b)(2)(B).

10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2016–86 and should be submitted on or before July 12, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14557 Filed 6–20–16; 8:45 am]

BILLING CODE 8011–01–P

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[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78079; File No. SR–BatsBZX–2016–09]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change to Rule 14.11, Managed Fund Shares, To List and Trade Shares of the Pointbreak Agriculture Commodity Strategy Fund of the Pointbreak ETF Trust

June 15, 2016.

On April 15, 2016, Bats BZX Exchange, Inc. (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (“Shares”) of the Pointbreak Agriculture Commodity Strategy Fund of the Pointbreak ETF Trust under BATS Rule 14.11(i). The proposed rule change was published for comment in the **Federal Register** on May 3, 2016.[3] The Commission received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act[4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to section 19(b)(2) of the Act,[5] designates August 1, 2016, as the date by which the Commission should either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–BatsBZX–2016–09).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14559 Filed 6–20–16; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77723 (April 27, 2016), 81 FR 26600.

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78075; File No. SR–NYSEArca–2016–84]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the Global Currency Gold Fund Under NYSE Arca Equities Rule 8.201

June 15, 2016.

Pursuant to section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the “Act”)[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on June 1, 2016, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the Global Currency Gold Fund under NYSE Arca Equities Rule 8.201. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade (“Shares”) of the Global Currency Gold Fund (the “Fund”), a series of the Global Gold Currency Trust (Trust”), under NYSE Arca Equities Rule 8.201.[4] Under NYSE Arca Equities Rule 8.201, the Exchange may propose to list and/or trade pursuant to unlisted trading privileges (“UTP”) “Commodity-Based Trust Shares.”[5]

The Fund will not be registered as an investment company under the Investment Company Act of 1940[6] and is not required to register under such act.

The Sponsor of the Fund and the Trust will be WGC USA Asset Management Company, LLC (the “Sponsor”).[7] BNY Mellon Asset

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[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] On May 26, 2016, the Trust filed with the Commission an amended registration statement on Form S–1 under the Securities Act of 1933 (“1933 Act”) relating to the Fund (File No. 333–206640) (“Registration Statement”). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement.

[5] Commodity-Based Trust Shares are securities issued by a trust that represent investors' discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust.

[6] 15 U.S.C. 80a–1.

[7] The Trust will be a Delaware statutory trust consisting of multiple series, each of which will issue common units of beneficial interest, which represent units of fractional undivided beneficial interest in and ownership of such series. The term of the Trust and each series will be perpetual (unless terminated earlier in certain circumstances). The trustee for the Fund's trust (“Trustee”) will be a Delaware Trust Company, the sole trustee with respect to the Fund.

Servicing, a division of The Bank of New York Mellon ("BNYM"), will be the Fund's administrator ("Administrator") and transfer agent ("Transfer Agent") and will not be affiliated with the Trust, the Fund or the Sponsor. BNYM will also serve as the custodian of the Fund's cash, if any. HSBC Bank plc will be the custodian (the "Custodian") of the Fund's Gold (defined below).

The Commission has previously approved listing on the Exchange under NYSE Arca Equities Rules 5.2(j)(5) and 8.201 of other precious metals and gold-based commodity trusts, including the Merk Gold Trust;[8] ETFS Gold Trust,[9] ETFS Platinum Trust[10] and ETFS Palladium Trust (collectively, the "ETFS Trusts");[11] APMEX Physical—1 oz. Gold Redeemable Trust;[12] Sprott Gold Trust;[13] SPDR Gold Trust (formerly, streetTRACKS Gold Trust); iShares Silver Trust;[14] and iShares COMEX Gold Trust.[15] Prior to their listing on the Exchange, the Commission approved listing of the streetTRACKS Gold Trust on the New York Stock Exchange ("NYSE")[16] and listing of iShares COMEX Gold Trust and iShares Silver Trust on the American Stock Exchange LLC.[17] In addition, the Commission has approved trading of the streetTRACKS Gold Trust and iShares Silver Trust on the Exchange pursuant to UTP.[18]

Operation of the Fund

Gold bullion typically is priced and traded throughout the world in U.S. dollars. The Fund has been established as an alternative to traditional dollar-based gold investing. Although investors will purchase shares of the Fund with U.S. dollars, the Fund is designed to provide investors with the economic effect of holding gold in terms of a specific basket of major, non-U.S. currencies, such as the euro, Japanese yen and British pound (each, a "Reference Currency"), rather than the U.S. dollar. Specifically, the Fund will seek to track the performance of the GLD® Long USD Gold Index, less Fund expenses. The GLD® Long USD Gold Index, or the "Index", represents the daily performance of a long position in physical gold and a short position in the FX Basket[19] comprised of each of the Reference Currencies.[20] The Index is designed to measure daily gold bullion returns as though an investor had invested in Gold in terms of the FX Basket comprised of the Reference Currencies reflected in the Index. (The Index is described in more detail below under the heading "Description of the Index".)

The U.S. dollar value of an investment in Shares of the Fund would therefore be expected to increase when both the price of Gold goes up and the value of the U.S. dollar increases against the value of the Reference Currencies comprising the FX Basket (as weighted in the Index). Conversely, the U.S. dollar value of an investment would be expected to decrease when the price of Gold goes down and the value of the U.S. dollar decreases against the value of the Reference Currencies comprising the FX Basket (as weighted in the Index). If Gold increases and the value of the U.S. dollar decreases against the value of the Reference Currencies comprising the FX Basket, or vice versa, the net impact of these changes will determine the value of the Shares of the Fund on a daily basis.[21]

The Fund is a passive investment vehicle and is designed to track the performance of the Index regardless of: (i) The value of Gold or any Reference Currency; (ii) market conditions; and (iii) whether the Index is increasing or decreasing in value. The Fund's holdings generally will consist entirely of Gold. Substantially all of the Fund's Gold holdings will be delivered by Authorized Participants (defined below) in exchange for Fund Shares. The Fund will not hold any of the Reference Currencies. The Fund generally will not hold U.S. dollars (except from time to time in very limited amounts to pay expenses). The Fund's Gold holdings will not be managed and the Fund will not have any investment discretion.

The Fund's net asset value ("NAV") will go up or down each "Business Day" based primarily on two factors.[22] The first is the change in the price of Gold measured in U.S. dollars from the prior Business Day. This drives the value of the Fund's Gold holdings measured in U.S. dollars up (as Gold prices increase) or down (as Gold prices fall). The second is the change in the value of the Reference Currencies comprising the FX Basket against the U.S. dollar from the prior Business Day. This drives the value of the Fund's Gold holdings measured in the Reference Currencies comprising the FX Basket up (when the value of the U.S. dollar against the Reference Currencies comprising the FX Basket increases) or down (when the value of the U.S. dollar against the Reference Currencies comprising the FX Basket declines). The value of Gold and the Reference Currencies comprising the FX Basket are based on publicly available, transparent prices—for Gold, the LBMA Gold Price AM (defined below), for currencies, the WMR Fix.[23]

Because the Fund generally will hold only Gold bullion (and not U.S. dollars or the Reference Currencies), the economic impact of changes to the value of the Reference Currencies against the U.S. dollar from day to day is reflected in the Fund by moving an amount of Gold ounces of equivalent value in or out of the Fund. Therefore, the Fund will seek to track the performance of the Index by entering into a transaction each Business Day with the "Gold Delivery Provider" pursuant to which Gold is moved in or out of the Fund.[24] The terms of this transaction are set forth in a written contract between the Fund and the Gold Delivery Provider referred to as the "Gold Delivery Agreement." Pursuant to the terms of the Gold Delivery Agreement, the Fund will deliver Gold to, or receive Gold from, the Gold Delivery Provider each Business Day. The amount of Gold transferred will be equivalent to the Fund's profit or loss as if the Fund had exchanged the Reference Currencies comprising the FX Basket, in the proportion in which they are reflected in the Index, for U.S. dollars in an amount equal to the Fund's declared holdings of Gold on such day. If there is a currency gain (*i.e.*, the value of the U.S. dollar against the Reference Currencies comprising the FX Basket increases), the Fund will receive Gold. If there is a currency loss (*i.e.*, the value of the U.S. dollar against the Reference Currencies comprising the FX Basket decreases), the Fund will deliver Gold.[25] In this manner, the value of the Gold held by the Fund will be adjusted to reflect the daily change in the value of the Reference Currencies comprising the FX Basket against the U.S. dollar. The Gold Delivery Agreement requires Gold ounces equal to the value of the Gold Delivery Amount to be delivered to the custody account of the Fund or Gold Delivery Provider, as applicable. The fee that the Fund pays the Gold Delivery Provider for its services under the Gold Delivery Agreement will be accrued daily and reflected in the calculation of the Gold Delivery Amount.

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[8] Securities Exchange Act Release No. 71378 (January 23, 2014), 79 FR 4786 (January 29, 2014) (SR–NYSEArca–2013–137).

[9] Securities Exchange Act Release No. 59895 (May 8, 2009), 74 FR 22993 (May 15, 2009) (SR–NYSEArca–2009–40).

[10] Securities Exchange Act Release No. 61219 (December 22, 2009), 74 FR 68886 (December 29, 2009) (SR–NYSEArca–2009–95).

[11] Securities Exchange Act Release No. 61220 (December 22, 2009), 74 FR 68895 (December 29, 2009) (SR–NYSEArca–2009–94).

[12] Securities Exchange Act Release No. 66930 (May 7, 2012), 77 FR 27817 (May 11, 2012) (SR–NYSEArca–2012–18).

[13] Securities Exchange Act Release No. 61496 (February 4, 2010), 75 FR 6758 (February 10, 2010) (SR–NYSEArca–2009–113).

[14] *See* Securities Exchange Act Release No. 58956 (November 14, 2008), 73 FR 71074 (November 24, 2008) (SR–NYSEArca–2008–124) (approving listing on the Exchange of the iShares Silver Trust)).

[15] *See* Securities Exchange Act Release No. 56224 (August 8, 2007), 72 FR 45850 (August 15, 2007) (SR–NYSEArca–2007–76) (approving listing on the Exchange of the streetTRACKS Gold Trust); Securities Exchange Act Release No. 56041 (July 11, 2007), 72 FR 39114 (July 17, 2007) (SR–NYSEArca–2007–43) (order approving listing on the Exchange of iShares COMEX Gold Trust).

[16] *See* Securities Exchange Act Release No. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (SR–NYSE–2004–22) (order approving listing of streetTRACKS Gold Trust on NYSE).

[17] *See* Securities Exchange Act Release Nos. 51058 (January 19, 2005), 70 FR 3749 (January 26, 2005) (SR–Amex–2004–38) (order approving listing of iShares COMEX Gold Trust on the American Stock Exchange LLC); 53521 (March 20, 2006), 71 FR 14967 (March 24, 2006) (SR–Amex–2005–72) (approving listing on the American Stock Exchange LLC of the iShares Silver Trust).

[18] *See* Securities Exchange Act Release Nos. 53520 (March 20, 2006), 71 FR 14977 (March 24, 2006) (SR–PCX–2005–117) (approving trading on the Exchange pursuant to UTP of the iShares Silver Trust); 51245 (February 23, 2005), 70 FR 10731 (March 4, 2005) (SR–PCX–2004–117) (approving trading on the Exchange of the streetTRACKS Gold Trust pursuant to UTP).

[19] "FX Basket" means the basket of Reference Currencies with weighting determined by the Index.

[20] "Gold" means gold bullion meeting the requirements of London Good Delivery Standards. London Good Delivery Standards are the specifications for weight dimensions, fineness (or purity), identifying marks and appearance set forth in "The Good Delivery Rules for Gold and Silver Bars" published by the London Bullion Markets Association ("LBMA").

[21] For additional information regarding the gold bullion market, gold futures exchanges, and regulation of the global gold market, *see, e.g.*, Securities Exchange Act Release Nos. 59895 (May 8, 2009), 74 FR 22993 (May 15, 2009) (SR–NYSEArca–2009–40) (order approving Exchange listing and trading of the ETFS Gold Trust); and 66627 (March 20, 2012), 77 FR 27817 (May 11, 2012) (SR–NYSE Arca–2012–18) (order approving Exchange listing and trading of the APMEX Physical—1 oz. Gold Redeemable Trust).

[22] A Business Day with respect to the Fund is any day the Exchange is open for trading. A Business Day with respect to the Index generally is any day on which (i) LBMA Gold prices are established and (ii) banks are scheduled to be open in the principal financial center of the jurisdiction in which each Reference Currency is the lawful currency.

[23] The WMR Fix is the World Markets Company plc foreign exchange benchmark rate.

The Fund does not intend to enter into any other Gold transactions other than with the Gold Delivery Provider as described in the Gold Delivery Agreement (except that the Fund may sell Gold to cover Fund expenses), and the Fund does not intend to hold any Reference Currency or enter into any currency transactions.

Description of the Index

The Index is maintained and calculated by a third-party data and index provider, Solactive AG (the "Index Provider"). The Index Provider will license the Index to the Sponsor for use in connection with the Trust and the Fund. The Index Provider is not affiliated with the Trust, the Fund, the Sponsor, the trustee for the Trust, the Administrator, the Transfer Agent, the Custodian or the Gold Delivery Provider. The Index Provider is not affiliated with a broker-dealer. The Index Provider has adopted policies and procedures designed to prevent the spread of material non-public information about the Index.

The description of the strategy and methodology underlying the Index, which will be identified and described in the Registration Statement, is based on rules formulated by the Index Provider (the "Index Rules"). The Index Rules, which will be described in the Registration Statement, will govern the calculation and constitution of the Index and other decisions and actions related to its maintenance. The Index is described as a "notional" or "synthetic" portfolio or strategy because there is no actual portfolio of assets to which any person is entitled or in which any person has any ownership interest. The Index references certain assets (*i.e.*, Gold and the Reference Currencies comprising the FX Basket), the performance of which will be used as a reference point for calculating the daily performance of the Index (the "Index Level"). The Index seeks to track the daily performance of a long position in physical Gold and a short position in the Reference Currencies comprising the FX Basket (as weighted in the Index). If the Gold Price (as defined below) increases and the Reference Currencies comprising the FX Basket depreciate against the U.S. dollar, the Index Level will increase. Conversely, if the Gold Price decreases and the Reference Currencies comprising the FX Basket appreciate against the U.S. dollar, the Index Level will decrease. In certain cases, the appreciation of the Gold Price or the depreciation of the FX Basket comprised of the Reference Currencies may be offset by the appreciation of the FX Basket comprised of the Reference Currencies or the depreciation of the Gold Price, as applicable. The net impact of these changes determines the Index Level on a daily basis.

The Index values Gold on a daily basis using the "Gold Price." The Gold Price generally is the LBMA Gold Price AM. The "LBMA Gold Price" means the price per troy ounce of Gold stated in U.S. dollars as set via an electronic auction process run twice daily at 10:30 a.m. and 3:00 p.m., London time each Business Day as calculated and administered by ICE Benchmark Administration Limited ("IBA") and published by LBMA on its Web site. The "LBMA Gold Price AM" is the 10:30 a.m. LBMA Gold Price. IBA, an independent specialist benchmark administrator, provides the price platform, methodology and the overall administration and governance for the LBMA Gold Price.

As noted herein, the term "Reference Currencies" refers to the following non-U.S. currencies: The euro, Japanese yen, British pound sterling, Canadian dollar, Swedish krona and Swiss franc. Each Reference Currency comprising the FX Basket is expressed in terms of a number of foreign currency units relative to one U.S. dollar (*e.g.*, a number of Japanese yen per one U.S. dollar) or in terms of a number of U.S. dollars per one unit of the reference currency (*e.g.*, a number of U.S. dollars per one euro).

The Index references European Union euro ("euro" or "EUR"), the Japanese yen ("JPY" or "yen"), the British pound sterling ("GBP"), the Swiss franc ("CHF"), the Canadian dollar ("CAD") and the Swedish Krona ("SEK") (each of which is measured against U.S. dollars). The weightings of each currency referenced are as follows: Euro (57.6%), yen (13.6%), GBP (11.9%), CAD (9.1%), SEK (4.2%) and CHF (3.6%).

Reference Currency Index values generally are calculated using the published WM/Reuters ("WMR") Spot Rate ("Spot Rate") as of 9:00 a.m., London time associated with each Reference Currency.[26] The "Spot Rate"

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[24] The Gold Delivery Provider, Merrill Lynch International, is a company incorporated in England and Wales and regulated by the Prudential Regulation Authority (the "PRA") and the Financial Conduct Authority (the "FCA"). The Gold Delivery Provider will not be affiliated with the Trust, the Fund, the Sponsor, the Trustee, the Administrator, the Transfer Agent, the Custodian or the Index Provider (defined below).

[25] If the applicable currency exchange rates did not change from one day to the next, or the net impact of such changes was zero, then the Fund would neither deliver nor receive Gold pursuant to the Gold Delivery Agreement.

[26] The Spot Rate is calculated by WMR using observable data from arms-length transactions between buyers and sellers in the applicable currency market. The World Markets Company plc ("WM") provides an exchange rate service that publishes Spot Rates at fixed times throughout the global trading day. WM does not use a panel or polling solicitation process to obtain underlying data in the benchmark calculation process. WM uses transactional data to set "Trade Rates," reflecting data from actual transactions entered into on an arm's length basis between buyers and sellers in that market, where that data is available and reflects sufficient liquidity. In a market where lower liquidity exists, "Order Rates" will be used to set the Spot Rate, based predominantly or exclusively on bid and offer rates, or from prior transactions. The Thomson Reuters Market Data System is the primary infrastructure used to source spot foreign exchange rates used in the calculation of the rates. Other systems may be used where the appropriate

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is the rate at which a Reference Currency comprising the FX Basket can be exchanged for U.S. dollars on an immediate basis, subject to the applicable settlement cycle. Thus, if an investor wanted to convert U.S. dollars into euros, the investor could enter into a spot transaction at the Spot Rate (subject to the bid/ask) and would receive euros in a number of days, depending on the settlement cycle of that currency. Generally, the settlement of a "spot" transaction is two currency business days (except in the case of Canadian dollars, which settle on the next business day). The following table sets forth the Reference Currencies comprising the FX Basket (each of which is measured against U.S. dollars), the applicable "Reuters Page" for each Spot Rate referenced by the Index and the market convention for quoting such currency.

Reference currency	Reuters page	Market convention for quotation
EUR/USD	USDEURFIX=WM	Number of USD per one EUR.
USD/JPY	USDJPYFIX=WM	Number of JPY per one USD.
GBP/USD	USDGBPFIX=WM	Number of USD per one GBP.
USD/CAD	USDCADFIX=WM	Number of CAD per one USD.
USD/SEK	USDSEKFIX=WM	Number of SEK per one USD.
USD/CHF	USDCHFFIX=WM	Number of CHF per one USD.

Settlement in most spot currency transactions is two currency business days after the trade date. A "spot-next trade" effectively extends the spot settlement cycle by one Business Day (*i.e.*, the "next" day) and a "spot-next forward point" represents the difference in price between a spot transaction and a spot-next trade. Combining a spot-next trade with a spot transaction allows for exposure to the currency without taking delivery. By entering on each Business Day into notional spot-next trades that are closed the next Business Day against spot transactions, the Index is exposed to the Reference Currencies comprising the FX Basket without having to take delivery of these currencies. The Index approximates the cost of entering into a spot-next trade by linearly interpolating the cost of that trade based on the WM/Reuters "SW—Spot Week (One Week)" forward rates and a spot transaction.

In general, the Index is calculated by the Index Provider each Business Day, unless there is a "Market Disruption Event" or "Extraordinary Event" as described below.

The Gold Delivery Agreement

The Fund has entered into a written contract with the Gold Delivery Provider. Subject to the terms of the Gold Delivery Agreement, on a daily basis, the Gold Delivery Provider will (i) calculate the Gold Delivery Amount and (ii) deliver Gold ounces equal to the U.S. dollar value of the Gold Delivery Amount into or out of the Fund. The Gold Delivery Amount is the amount of Gold ounces to be delivered into or out of the Fund on a daily basis to reflect price movements in the Reference Currencies comprising the FX Basket against the U.S. dollar from the prior Business Day (assuming no Market Disruption Event or Extraordinary Event has occurred or is continuing, as described in more detail below).

On each Business Day, the Gold Delivery Provider determines the notional exposure for each Reference Currency comprising the FX Basket based upon their respective Index weights. The total notional exposure for each Reference Currency on a Business Day takes into account the NAV of the Fund (which takes into account creation and redemption orders received on that day).

The Gold Delivery Provider then determines the "FX PnL" which captures the effect of changes in the daily value of the Reference Currencies comprising the FX Basket in their respective weights by calculating the change in the Spot Rate from the prior Business Day to the current Business Day and adjusting that change to reflect a notional spot-next trade because delivery of currencies is not being taken. The Gold Delivery Provider may use another rate if any Spot Rate is delayed or unavailable as set forth in the Gold Delivery Agreement. The Gold Delivery Provider generally will make this calculation outside of U.S. market hours (at approximately 4:00 a.m. E.T.) based on the prices of the Reference Currencies comprising the FX Basket published at the "WMR FX Fixing Time," which is generally at 9:00 a.m., London Time.

The FX PnL is divided by the Gold Price (*i.e.*, the LBMA Gold Price AM) to determine the Gold Delivery Amount. The fee that the Fund pays the Gold Delivery Provider for its services under the Gold Delivery Agreement is accrued daily and reflected in the calculation of the Gold Delivery Amount.

If the Gold Delivery Amount is a positive number (meaning that the Fund has experienced a currency gain on the notional short position in the FX Basket comprised of Reference Currencies), the Gold Delivery Provider will transfer to the Fund's custody account an amount of Gold (in ounces) equal to the Gold Delivery Amount. If the Gold Delivery Amount is a negative number (meaning that the Fund has experienced a currency loss on the notional short position in the FX Basket comprised of Reference Currencies), the Fund will transfer to the Gold Delivery Provider's custody account an amount of Gold (in ounces) equal to the Gold Delivery Amount.

Market Disruption and Extraordinary Events

From time to time, unexpected events may cause the calculation of the Index and/or the operation of the Fund to be disrupted. These events are expected to be relatively rare, but there can be no guarantee that these events will not occur. These events are referred to as either "Market Disruption Events" or "Extraordinary Events" depending largely on their significance and potential impact to the Index and Fund. Market Disruption Events generally include disruptions in the trading of Gold or the Reference Currencies comprising the FX Basket, delays or disruptions in the publication of the LBMA Gold Price or the Reference Currency prices, and unusual market or other events that are tied to either the trading of gold or the Reference

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rates are not available on the Thomson Reuters architecture. Over a five-minute fix period, actual trades executed and bid and offer order rates from the order matching systems are captured every second from 2 minutes 30 seconds before to 2 minutes 30 seconds after the time of the fix. From each data source, a single traded rate will be captured—this will be identified as a bid or offer depending on whether the trade is a buy or sell. A pre-defined spread set for each currency at each fix will be applied to the Trade Rate to calculate the opposite bid or offer. All captured trades will be subjected to validation checks. This may result in some captured data being excluded from the fix calculation. The WMR methodology guide is available at: *http://www.wmcompany.com/pdfs/WMReutersMethodology.pdf*.

Currencies comprising the FX Basket or otherwise have a significant impact on the trading of gold or the Reference Currencies comprising the FX Basket. For example, market conditions or other events which result in a material limitation in, or a suspension of, the trading of physical Gold generally would be considered Market Disruption Events, as would material disruptions or delays in the determination or publication of the LBMA Gold Price AM. Similarly, market conditions which prevent, restrict or delay the Gold Delivery Provider's ability to convert a Reference Currency to U.S. dollars or deliver a Reference Currency through customary channels generally would be considered a Market Disruption Event, as would material disruptions or delays in the determination or publication of WMR spot prices for any Reference Currency comprising the FX Basket. The complete definition of a Market Disruption Event is set forth below.

A "Market Disruption Event" occurs if either an "FX Basket Disruption Event" or a "Gold Disruption Event" occurs.

An "FX Basket Disruption Event" occurs if any of the following exist on any "Index Business Day"[27] with respect to the Reference Currencies comprising the FX Basket:

(i) an event, circumstance or cause (including, without limitation, the adoption of or any change in any applicable law or regulation) that has had or would reasonably be expected to have a materially adverse effect on the availability of a market for converting such Reference Currency to U.S. Dollars (or vice versa), whether due to market illiquidity, illegality, the adoption of or change in any law or other regulatory instrument, inconvertibility, establishment of dual exchange rates or foreign exchange controls or the occurrence or existence of any other circumstance or event, as determined by the Index Sponsor; or

(ii) the failure of Reuters to announce or publish the relevant spot exchange rates for any Reference Currency in the FX Basket; or

(iii) any event or any condition that (I) results in a lack of liquidity in the market for trading any Reference Currency that makes it impossible or illegal for market participants (a) to convert from one currency to another through customary commercial channels, (b) to effect currency transactions in, or to obtain market values of, such, currency, (c) to obtain a firm quote for the related exchange rate, or (d) to obtain the relevant exchange rate by reference to the applicable price source; or (II) leads to any governmental entity imposing rules that effectively set the prices of any of the currencies; or

(iv) the declaration of (a) a banking moratorium or the suspension of payments by banks, in either case, in the country of any currency used to determine any Reference Currency exchange rate, or (b) capital and/or currency controls (including, without limitation, any restriction placed on assets in or transactions through any account through which a non-resident of the country of any currency used to determine the currency exchange rate may hold assets or transfer monies outside the country of that currency, and any restriction on the transfer of funds, securities or other assets of market participants from, within or outside of the country of any currency used to determine the applicable exchange rate.

A "Gold Disruption Event" occurs if any of the following exist on any Index Business Day with respect to gold:

(i)(a) the failure of the LBMA to announce or publish the LBMA Gold Price (or the information necessary for determining the price of gold) on that Index Business Day, (b) the temporary or permanent discontinuance or unavailability of the LBMA or the LBMA Gold Price; or

(ii) the material suspension of, or material limitation imposed on, trading in Gold by the LBMA; or

(iii) an event that causes market participants to be unable to deliver gold bullion loco London under rules of the LBMA by credit to an unallocated account at a member of the LBMA; or

(iv) the permanent discontinuation of trading of gold on the LBMA or any successor body thereto, the disappearance of, or of trading in, gold; or

(v) a material change in the formula for or the method of calculating the price of gold, or a material change in the content, composition or constitution of gold.

The occurrence of a Market Disruption Event for five Index Business Days generally would be considered an Extraordinary Event for the Index and Fund.

Consequences of a Market Disruption or Extraordinary Event

On any Index Business Day in which a Market Disruption Event or Extraordinary Event has occurred or is continuing, the Index Provider generally will calculate the Index based on the following fallback procedures: (i) Where the Market Disruption Event is based on the Gold Price, the Index will be kept at the same level as the previous Index Business Day and updated when the Gold Price is no longer disrupted; (ii) where the Gold Price is not disrupted but one of the Reference Currency prices is disrupted, the Index will be calculated in the ordinary course except that the disrupted Reference Currency will be kept at its value from the previous Index Business Day and updated when it is no longer disrupted; and (iii) if both the Gold Price and a Reference Currency price are disrupted, the Index will be kept at the same level as the previous Index Business Day and updated when such prices are no longer disrupted. If a Market Disruption Event has occurred and is continuing for five (5) or more consecutive Index Business Days, the Index Provider will calculate a substitute price for each index component that is disrupted. If an Extraordinary Event has occurred and is continuing, the Index Provider shall be responsible for making any decisions regarding the future composition of the Index and implement any necessary adjustments that might be required. If necessary, the Fund may use alternate pricing sources to calculate NAV during the occurrence of any Market Disruption or Extraordinary event.[28] The Fund will not calculate NAV during the occurrence of a Market Disruption Event or Extraordinary Event with respect to the price of gold.

The London Gold Bullion Market

Although the market for physical gold is global, most over-the-counter, or "OTC", trades are cleared through London. In addition to coordinating market activities, the LBMA acts as the principal point of contact between the market and its regulators. A primary function of the LBMA is its involvement in the promotion of refining standards by maintenance of the "London Good Delivery Lists," which are the lists of LBMA accredited melters and assayers of gold. The LBMA also coordinates market clearing and vaulting, promotes good trading practices and develops standard documentation.

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[27] An "Index Business Day" is (i) any day that is a business day in New York and London, (ii) any day (other than a Saturday or Sunday) on which the LBMA is scheduled to publish the LBMA Gold Price AM, and (iii) any day (other than a Saturday or Sunday) on which WM Company is scheduled to publish prices for each of the Reference Currency pairs comprising the FX Basket.

[28] The Exchange may suspend trading in the Shares in the event the Sponsor suspends the right of redemptions.

The term "loco London" refers to gold bars physically held in London that meet the specifications for weight, dimensions, fineness (or purity), identifying marks (including the assay stamp of a LBMA acceptable refiner) and appearance set forth in "The Good Delivery Rules for Gold and Silver Bars" published by the LBMA. Gold bars meeting these requirements are known as "London Good Delivery Bars." All of the gold held by the Fund will be London Good Delivery Bars meeting the specifications for weight, dimensions, fineness (or purity), identifying marks and appearance of gold bars as set forth in "The Good Delivery Rules for Gold and Silver Bars" published by the LBMA.

The unit of trade in London is the troy ounce, whose conversion between grams is: 1,000 grams = 32.1507465 troy ounces and 1 troy ounce = 31.1034768 grams. A London Good Delivery Bar is acceptable for delivery in settlement of a transaction on the OTC market. Typically referred to as 400-ounce bars, a London Good Delivery Bar must contain between 350 and 430 fine troy ounces of gold, with a minimum fineness (or purity) of 995 parts per 1,000 (99.5%), be of good appearance and be easy to handle and stack. The fine gold content of a gold bar is calculated by multiplying the gross weight of the bar (expressed in units of 0.025 troy ounces) by the fineness of the bar.

The LBMA Gold Price

IBA hosts a physically settled, electronic and tradeable auction process that provides a market-based platform for buyers and sellers to trade physical spot Gold. The final auction price is used and published to the market as the "LBMA Gold Price benchmark." The LBMA Gold Price is set twice daily at 10:30 a.m., London time and 3:00 p.m., London time in three currencies: U.S. dollars, euro and British pounds sterling. The LBMA Gold Price is a widely used benchmark for the physical spot price of Gold and is quoted by various financial information sources.

Participants in the IBA auction process submit anonymous bids and offers which are published on screen and in real-time. Throughout the auction process, aggregated Gold bids and offers are updated in real-time with the imbalance calculated and the price updated every 45 seconds until the buy and sell orders are matched. When the net volume of all participants falls within a pre-determined tolerance, the auction is deemed complete and the applicable LBMA Gold Price is published. Information about the auction process (such as aggregated bid and offer volumes) will be immediately available after the auction on the IBA's Web site.

The LBMA Gold Price replaced the widely used "London Gold Fix" as of March 20, 2015.

The Gold Futures Markets

Although the Fund will not invest in gold futures, information about the gold futures market is relevant as such markets contribute to, and provide evidence of, the liquidity of the overall market for Gold.

The most significant gold futures exchange is COMEX, part of the CME Group, Inc., which began to offer trading in gold futures contracts in 1974. TOCOM (Tokyo Commodity Exchange) is another significant futures exchange and has been trading gold since 1982. Trading on these exchanges is based on fixed delivery dates and transaction sizes for the futures and options contracts traded. Trading costs are negotiable. As a matter of practice, only a small percentage of the futures market turnover ever comes to physical delivery of the gold represented by the contracts traded. Both exchanges permit trading on margin. Both COMEX and TOCOM operate through a central clearance system and in each case, the clearing organization acts as a counterparty for each member for clearing purposes. Gold futures contracts also are traded on the Shanghai Gold Exchange and the Shanghai Futures Exchange.

The global gold markets are overseen and regulated by both governmental and self-regulatory organizations. In addition, certain trade associations have established rules and protocols for market practices and participants.

Net Asset Value

The Administrator will determine the NAV of Shares of the Fund each Business Day, unless there is a Market Disruption Event or Extraordinary Event based on the Gold Price. The NAV of Shares of the Fund is the aggregate value of the Fund's assets (which include gold payable, but not yet delivered, to the Fund) less its liabilities (which include accrued but unpaid fees and expenses). The NAV of the Fund will be calculated based on the price of Gold per ounce applied against the number of ounces of Gold owned by the Fund. The number of ounces of Gold held by the Fund is adjusted up or down on a daily basis to reflect the Gold Delivery Amount. The number of ounces of Gold held by the Fund also reflects the amount of Gold delivered into (or out of) the Fund on a daily basis by Authorized Participants (as described below) creating and redeeming Shares. In determining the Fund's NAV, the Administrator generally will value the Gold held by the Fund based on the LBMA Gold Price AM for an ounce of Gold (though other sources may be used if the LBMA Gold Price AM is delayed or unavailable). Although the Fund will not hold the Reference Currencies, the Gold Delivery Provider generally will value the Reference Currencies based on the rates in effect as of the WMR FX Fixing Time, which is generally at 9:00 a.m., London Time (though other prices may be used if the 9:00 a.m. rate is delayed or unavailable). The Administrator will also determine the NAV per Share, which equals the NAV of the Fund, divided by the number of outstanding Shares. Unless there is a Market Disruption Event or Extraordinary Event with respect to the price of gold, NAV generally will be calculated as of 12:00 p.m. E.T.

Creation and Redemption of Shares

The Fund expects to create and redeem Shares but only in Creation Units (a Creation Unit equals a block of 10,000 Shares or more). The creation and redemption of Creation Units requires the delivery to the Fund (or the distribution by the Fund in the case of redemptions) of the amount of Gold and any cash, if any, represented by the Creation Units being created or redeemed. The total amount of Gold and cash, if any, required for the creation of Creation Units will be based on the combined NAV of the number of Creation Units being created or redeemed. The initial amount of Gold required for deposit with the Fund to create Shares is 1,000 ounces per Creation Unit. The number of ounces of Gold required to create a Creation Unit or to be delivered upon redemption of a Creation Unit will change over time depending on Index performance net of the fees charged by the Fund and the Gold Delivery Provider. Creation Units may be created or redeemed only by "Authorized Participants" (as described below), who may be required to pay a transaction fee for each order to create or redeem Creation Units as will be set forth in the Registration Statement. Authorized Participants may sell to other investors all or part of the Shares included in the Creation Units they purchase from the Fund.

Creation Procedures—Authorized Participants

Authorized Participants are the only persons that may place orders to create and redeem Creation Units. To become an Authorized Participant, a person must enter into a Participant Agreement. All Gold bullion must be delivered to the Fund and distributed by the Fund in unallocated form through credits and debits between an Authorized Participant's unallocated account ("Authorized Participant Unallocated Account") and the Fund's unallocated account ("Fund Unallocated Account") (except for Gold delivered to or from the Gold Delivery Provider pursuant to the Gold Delivery Agreement). All Gold bullion must be of at least a minimum fineness (or purity) of 995 parts per 1,000 (99.5%) and otherwise conform to the rules, regulations practices and customs of the LBMA, including the specifications for a London Good Delivery Bar.

On any Business Day, an Authorized Participant may place an order with the Fund to create one or more Creation Units. Purchase orders must be placed by 5:30 p.m., Eastern time ("E.T."). The day on which the Fund receives a valid purchase order is the purchase order date. By placing a purchase order, an Authorized Participant agrees to deposit Gold with the Fund, or a combination of Gold and cash, if any, as described below.[29] Prior to the delivery of Creation Units for a purchase order, the Authorized Participant must also have wired to the Fund the non-refundable transaction fee due for the purchase order.

The total deposit of Gold (and cash, if any) required to create each Creation Unit is referred to as the "Creation Unit Gold Delivery Amount." The Creation Unit Gold Delivery Amount is the number of ounces of Gold required to be delivered to the Fund by an Authorized Participant in connection with a creation order for a single Creation Unit.[30] The Creation Unit Gold Delivery Amount will be determined on the Business Day following the date such creation order is accepted. It is calculated by multiplying the number of Shares in a Creation Unit by the number of ounces of Gold associated with Fund Shares on the Business Day after the day the creation order is accepted. In addition, because the Gold Delivery Amount for the Fund does not reflect creation order transactions (see the section herein entitled "The Gold Delivery Agreement"), the Creation Unit Gold Delivery Amount is required to reflect the Gold Delivery Amount associated with such creation order. This amount is determined on the Business Day following the date such creation order is accepted.

An Authorized Participant who places a purchase order is responsible for crediting its Authorized Participant Unallocated Account with the required Gold deposit amount by the end of the third Business Day in London following the purchase order date. Upon receipt of the Gold deposit amount, the Custodian, after receiving appropriate instructions from the Authorized Participant and the Fund, will transfer on the third Business Day following the purchase order date the Gold deposit amount from the Authorized Participant Unallocated Account to the Fund Unallocated Account and the Administrator will direct the Depository Trust Company ("DTC") to credit the number of Creation Units ordered to the Authorized Participant's DTC account. The expense and risk of delivery, ownership and safekeeping of Gold until such Gold has been received by the Fund will be borne solely by the Authorized Participant. If Gold is to be delivered other than as described above, the Sponsor is authorized to establish such procedures and to appoint such custodians and establish such custody accounts as the Sponsor determines to be desirable.

Acting on standing instructions given by the Fund, the Custodian will transfer the Gold deposit amount from the Fund Unallocated Account to the Fund's allocated account by allocating to the allocated account specific bars of Gold which the Custodian holds or instructing a subcustodian to allocate specific bars of Gold held by or for the subcustodian. The Gold bars in an allocated Gold account are specific to that account and are identified by a list which shows, for each Gold bar, the refiner, assay or fineness, serial number and gross and fine weight. Gold held in the Fund's allocated account is the property of the Fund and is not traded, leased or loaned under any circumstances.

The Custodian will use commercially reasonable efforts to complete the transfer of Gold to the Fund's allocated account prior to the time by which the Administrator is to credit the Creation Unit to the Authorized Participant's DTC account; if, however, such transfers have not been completed by such time, the number of Creation Units ordered will be delivered against receipt of the Gold deposit amount in the Fund's unallocated account, and all Shareholders will be exposed to the risks of unallocated Gold to the extent of that Gold deposit amount until the Custodian completes the allocation process.

Redemption Procedures—Authorized Participants

The procedures by which an Authorized Participant can redeem one or more Creation Units mirror the procedures for the creation of Creation Units. On any Business Day, an Authorized Participant may place an order with the Fund to redeem one or more Creation Units. Redemption orders must be placed by 5:30 p.m. E.T. A redemption order so received is effective on the date it is received in satisfactory form by the Fund. An Authorized Participant may be required to pay a transaction fee per order to create or redeem Creation Units as will be set forth in the Registration Statement.

The redemption distribution from the Fund consists of a credit in the amount of the Creation Unit Gold Delivery Amount to the Authorized Participant Unallocated Account of the redeeming Authorized Participant. The Creation Unit Delivery Amount for redemptions is the number of ounces of Gold held by the Fund associated with the Shares being redeemed plus, or minus, the cash redemption amount (if any). The Sponsor anticipates that in the ordinary course of the Fund's operations there will be no cash distributions made to Authorized Participants upon redemptions. In addition, because the Gold to be paid out in connection with the redemption order will decrease the amount of Gold subject to the Gold Delivery Agreement, the Creation Unit Gold Delivery Amount reflects the cost to the Gold Delivery Provider of resizing (*i.e.,* decreasing) its positions so that it can fulfill its obligations under the Gold Delivery Agreement.

The redemption distribution due from the Fund is delivered to the Authorized Participant on the third Business Day following the redemption order date if, by 10:00 a.m. E.T. on such third Business Day, the Fund's DTC account has been credited with the Creation Units to be redeemed. If the Administrator's DTC account has not been credited with all of the Creation Units to be redeemed by such time, the redemption distribution is delivered to the extent of whole Creation Units received. Any remainder of the redemption distribution is delivered on the next Business Day to the extent of remaining whole Creation Units received if the Administrator receives the fee applicable to the extension of the redemption distribution date which the Administrator may, from time to time, determine and the remaining Creation Units to be redeemed are credited to the Administrator's DTC account by 10:00 a.m. E.T. on such next Business Day. Any further outstanding amount of the redemption order will be cancelled. The Administrator is also authorized to deliver the redemption distribution notwithstanding that the Creation Units to be redeemed are not credited to the Administrator's DTC account by 10:00 a.m. E.T. on the third Business Day following the redemption order date if the Authorized Participant has collateralized its obligation to deliver the Creation Units through DTC's book entry system on such terms as the Sponsor and the Administrator may from time to time agree upon.

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[29] The Sponsor anticipates that in the ordinary course of the Fund's operations cash generally will not be part of any Creation Unit.

[30] The "Creation Unit Gold Delivery Amount" is also used to refer to the number of ounces of Gold to be paid by the Fund to an Authorized Participant in connection with the redemption of a Creation Unit. See "Redemption Procedures—Authorized Participants" herein.

The Custodian transfers the redemption Gold amount from the Fund's allocated account to the Fund's unallocated account and, thereafter, to the redeeming Authorized Participant's Authorized Participant Unallocated Account.

The Fund may, in its discretion, suspend the right of redemption, or postpone the redemption settlement date for: (1) Any period during which NYSE Arca is closed other than customary weekend or holiday closings, or trading on NYSE Arca is suspended or restricted, and (2) any period during which an emergency exists as a result of which delivery, disposal or evaluation of Gold or any Reference Currency is not reasonably practicable, or (3) such other period as the Sponsor determines to be necessary for the protection of the Shareholders, such as during the occurrence of a Market Disruption Event or Extraordinary Event based on the Gold Price.

The Fund will reject a redemption order if (i) the order is not in proper form as described in the Participant Agreement, (ii) the fulfillment of the order, in the opinion of its counsel, might be unlawful, (iii) the order would have adverse tax consequences to the Fund or its Shareholders or (iv) circumstances outside the control of the Administrator, the Sponsor or the Custodian make the redemption, for all practical purposes, not feasible to process.

Secondary Market Trading

While the Fund's investment objective is for the Shares to reflect the performance of Gold bullion in terms of the Reference Currencies reflected in the Index, less the expenses of the Fund, the Shares may trade in the secondary market at prices that are lower or higher relative to their NAV per Share. The amount of the discount or premium in the trading price relative to the NAV per Share may be influenced by non-concurrent trading hours between the NYSE Arca and the COMEX, London, Zurich and Singapore. While the Shares will trade on NYSE Arca until 8:00 p.m. E.T., liquidity in the global gold market will be reduced after the close of the COMEX at 1:30 p.m. E.T. As a result, during this time, trading spreads, and the resulting premium or discount, on the Shares may widen.

Fund Expenses

The Sponsor will receive an annual fee equal to 0.33% of the daily NAV of the Fund. In return the Sponsor will be responsible for the payment of the ordinary fees and expenses of the Fund, including the Administrator's fee, the Custodian's fee, the Gold Delivery Provider's fee, and the Index Provider's fee. This will be the case regardless of whether the ordinary expenses of the Fund exceed 0.33% of the daily NAV of the Fund. In addition, the Fund will pay the Gold Delivery Provider an annual fee of 0.17% of the daily NAV, so that the Fund's total annual expense ratio will be equal to 0.50%. The Sponsor's fee and payment to the Gold Delivery Provider are expected to be the only ordinary recurring expenses of the Fund.

Availability of Information Regarding Gold and Reference Currency Prices

Currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a commodity, such as gold, or the spot price of the Reference Currencies, over the Consolidated Tape. However, there will be disseminated over the Consolidated Tape the last sale price for the Shares, as is the case for all equity securities traded on the Exchange (including exchange-traded funds). In addition, there is a considerable amount of information about gold and currency prices and gold and currency markets available on public Web sites and through professional and subscription services.

Investors may obtain on a 24-hour basis gold pricing information based on the spot price for an ounce of Gold and pricing information for the Reference Currencies from various financial information service providers, such as Reuters and Bloomberg.

Reuters and Bloomberg, for example, provide at no charge on their Web sites delayed information regarding the spot price of Gold and last sale prices of Gold futures, as well as information about news and developments in the gold market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on Gold prices directly from market participants. Complete real-time data for Gold futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. There are a variety of other public Web sites providing information on gold, ranging from those specializing in precious metals to sites maintained by major newspapers. In addition, the LBMA Gold Price is publicly available at no charge at *www.lbma.org.uk.*

In addition, Reuters and Bloomberg, for example, provide at no charge on their Web sites delayed information regarding the spot price of each Reference Currency, as well as information about news and developments in the currency markets. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on currency transactions directly from market participants. Complete real-time data for currency transactions are available by subscription from Reuters and Bloomberg. There are a variety of other public Web sites providing information about the Reference Currencies and currency transactions, ranging from those specializing in currency trading to sites maintained by major newspapers.

Availability of Information

The Fund Web site will provide an intraday indicative value ("IIV") per Share for the Shares updated every 15 seconds, as calculated by the Exchange or a third party financial data provider during the Exchange's Core Trading Session (9:30 a.m. to 4:00 p.m. E.T.). The IIV will be calculated based on the amount of Gold held by the Fund and (i) a price of Gold derived from updated bids and offers indicative of the spot price of Gold, and (ii) intra-day exchange rates for each Reference Currency against the U.S. dollar.[31] The Fund's Web site will also provide the Creation Basket Deposit and the NAV of the Fund as calculated each Business Day by the Sponsor.

In addition, the Web site for the Fund will contain the following information, on a per Share basis, for the Fund: (a) The mid-point of the bid-ask price[32] at the close of trading ("Bid/Ask Price"), and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. The Web site for the Fund will also provide the Fund's prospectus, as well as the two most recent reports to stockholders. Finally, the Fund Web site will provide the last sale price of the Shares as traded in the U.S. market. In addition, the Exchange will make available over the Consolidated Tape quotation information, trading volume, closing prices and NAV for the Shares from the previous day. The Index value will be calculated daily using the daily LBMA Gold Price AM and the Spot Rate as of 9:00 a.m., London time. The Index value will be available from major market data vendors.

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[31] The IIV on a per Share basis disseminated during the Core Trading Session should not be viewed as a real-time update of the NAV, which is calculated once a day.

[32] The bid-ask price of the Trust will be determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day NAV.

Criteria for Initial and Continued Listing

The Fund will be subject to the criteria in NYSE Arca Equities Rule 8.201(e) for initial and continued listing of the Shares.

A minimum of 100,000 Shares will be required to be outstanding at the start of trading. The minimum number of shares required to be outstanding is comparable to requirements that have been applied to previously listed shares of the Sprott Physical Gold Trust, ETFS Trusts, streetTRACKS Gold Trust, the iShares COMEX Gold Trust, and the iShares Silver Trust. The Exchange believes that the anticipated minimum number of Shares outstanding at the start of trading is sufficient to provide adequate market liquidity.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Fund subject to the Exchange's existing rules governing the trading of equity securities. Trading in the Shares on the Exchange will occur in accordance with NYSE Arca Equities Rule 7.34(a). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Further, NYSE Arca Equities Rule 8.201 sets forth certain restrictions on ETP Holders acting as registered Market Makers in the Shares to facilitate surveillance. Pursuant to NYSE Arca Equities Rule 8.201(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its trading in the underlying gold, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Equities Rule 6.3 requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares).

As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. A subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which conditions in the underlying gold market have caused disruptions and/or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's "circuit breaker" rule.[33] The Exchange will halt trading in the Shares if the NAV of the Trust is not calculated or disseminated daily. The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IIV, as described above. If the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[34] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[35]

Also, pursuant to NYSE Arca Equities Rule 8.201(g), the Exchange is able to obtain information regarding trading in the Shares and the underlying gold, gold futures contracts, options on gold futures, or any other gold derivative, through ETP Holders acting as registered Market Makers, in connection with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

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[33] *See* NYSE Arca Equities Rule 7.12.

[34] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[35] For a list of the current members of ISG, *see www.isgportal.org.*

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares of the Fund on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Equities Rule 5.5(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Baskets (including noting that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IIV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of gold trading during the Core and Late Trading Sessions after the close of the major world gold markets; and (6) trading information. For example, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. The Exchange notes that investors purchasing Shares directly from the Fund (by delivery of the Creation Basket Deposit) will receive a prospectus. ETP Holders purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors.

In addition, the Information Bulletin will reference that the Fund is subject to various fees and expenses as will be described in the Registration Statement. The Information Bulletin will also reference the fact that there is no regulated source of last sale information regarding physical gold, that the Commission has no jurisdiction over the trading of gold as a physical commodity, and that the CFTC has regulatory jurisdiction over the trading of gold futures contracts and options on gold futures contracts.

The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under section 6(b)(5)[36] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.201. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that there is a considerable amount of gold price and gold market information available on public Web sites and through professional and subscription services. Investors may obtain on a 24-hour basis gold pricing information based on the spot price for an ounce of gold from various financial information service providers. Investors may obtain gold pricing information based on the spot price for an ounce of gold from various financial information service providers. Current spot prices also are generally available with bid/ask spreads from gold bullion dealers. In addition, the Fund's Web site will provide pricing information for gold spot prices and the Shares. Market prices for the Shares will be available from a variety of sources including brokerage firms, information Web sites and other information service providers. The NAV of the Fund will be published by the Sponsor on each day that the NYSE Arca is open for regular trading and will be posted on the Fund's Web site. The IIV relating to the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. In addition, the LBMA Gold Price is publicly available at no charge at *www.lbma.org.uk.* The Fund's Web site will also provide the Fund's prospectus, as well as the two most recent reports to stockholders. In addition, the Exchange will make available over the Consolidated Tape quotation information, trading volume, closing prices and NAV for the Shares from the previous day.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding gold pricing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change will enhance competition by accommodating Exchange trading of an additional exchange-traded product relating to physical gold.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

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[36] 15 U.S.C. 78f(b)(5).

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2016–84 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2016–84. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2016–84, and should be submitted on or before July 12, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14556 Filed 6–20–16; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14744 and #14745]

Texas Disaster #TX–00472

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Texas (FEMA–4272–DR), dated 06/11/2016.

Incident: Severe Storms and Flooding.

Incident Period: 05/26/2016 and continuing.

Effective Date: 06/11/2016.

Physical Loan Application Deadline Date: 08/10/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 03/11/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 06/11/2016, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Austin, Brazoria, Brazos, Fort Bend, Grimes, Hidalgo, Hood, Montgomery, San Jacinto, Travis, Waller, Washington.

Contiguous Counties (Economic Injury Loans Only):

Texas: Bastrop, Blanco, Brooks, Burleson, Burnet, Caldwell, Cameron, Colorado, Erath, Fayette, Galveston, Harris, Hays, Johnson, Kenedy, Lee, Leon, Liberty, Madison, Matagorda, Palo Pinto, Parker, Polk, Robertson, Somervell, Starr, Trinity, Walker, Wharton, Willacy, Williamson.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.250
Homeowners Without Credit Available Elsewhere	1.625
Businesses With Credit Available Elsewhere	6.250
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 147446 and for economic injury is 147450.

(Catalog of Federal Domestic Assistance Number 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2016–14421 Filed 6–20–16; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 9612]

Notice of Public Meeting

SUMMARY: As required by the Federal Advisory Committee Act, Public Law 92–463, the Department of State gives notice of a meeting of the Advisory Committee on International Postal and Delivery Services. This Committee will meet on Wednesday July 20, 2016, from 1:00 p.m. to 5:00 p.m. Eastern Time at the American Institute of Architects, Board Room, 1735 New York Avenue NW., Washington, DC 20006.

Any member of the public interested in providing input to the meeting should contact Ms. Shereece Robinson, whose contact information is listed below (see the "for further information" section of this notice). Each individual providing oral input is requested to limit his or her comments to five minutes. Requests to be added to the speakers list must be received in writing (letter or email) prior to the close of

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[37] 17 CFR 200.30–3(a)(12).

business on Wednesday July 13, 2016; written comments from members of the public for distribution at this meeting must reach Ms. Robinson by letter or email on this same date. A member of the public requesting reasonable accommodation should also make his/her request to Ms. Robinson by July 13. Requests received after that date will be considered but might not be able to be fulfilled.

The agenda of the meeting will include: Universal Postal Union Congress Preparations, Extraterritorial Offices of Exchange (ETOE), and Strengthening Global Capacity for Addressing.

FOR FURTHER INFORMATION CONTACT: Please contact Ms. Shereece Robinson of the Office of Specialized and Technical Agencies (IO/STA), Bureau of International Organization Affairs, U.S. Department of State, at tel. (202) 663–2649, by email at *RobinsonSA2@state.gov,* or by mail at IO/STA, Suite L–409 SA–1; U.S. Department of State; Washington, DC 20522.

Dated: June 10, 2016.

Joseph P. Murphy,

Designated Federal Officer, Advisory Committee on International Postal and Delivery Services, Office of Specialized and Technical Agencies, Bureau of International Organization Affairs, Department of State.

[FR Doc. 2016–14641 Filed 6–20–16; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Aviation Rulemaking Advisory Committee (ARAC) meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the ARAC.

DATES: The meeting will be held on July 19, 2016, starting at 1:00 p.m. Eastern Daylight Savings Time. Arrange oral presentations by July 12, 2016.

ADDRESSES: The meeting will take place at the Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, 10th Floor, MacCracken Conference Room.

FOR FURTHER INFORMATION CONTACT: Katherine Haley, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267- 3788; fax (202) 267–5075; email *Katherine.L.Haley@faa.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), we are giving notice of a meeting of the ARAC taking place on July 19, 2016, at the Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

The Agenda includes:

1. Status Reports From Active Working Groups

- a. ARAC
  - i. Aircraft Systems Information Security/Protection Working Group
  - ii. Air Traffic Controller Training Working Group
  - iii. Rotorcraft Occupant Protection Working Group
  - iv. Rotorcraft Bird Strike Working Group
  - v. Load Master Certification Working Group
  - vi. Airman Certification Systems Working Group
- b. Transport Airplane and Engine (TAE) Subcommittee
  - i. Transport Airplane Metallic and Composite Structures Working Group—Transport Airplane Damage-Tolerance and Fatigue Evaluation
  - ii. Flight Test Harmonization Working Group—Phase 2 Tasking
  - iii. Transport Airplane Crashworthiness and Ditching Evaluation Working Group
  - iv. Engine Harmonization Working Group- Engine Endurance Testing Requirements—Revision of Section 33.87
  - v. Airworthiness Assurance Working Group

2. Status Report From the FAA

Attendance is open to the interested public but limited to the space available. Please confirm your attendance with the person listed in the **FOR FURTHER INFORMATION CONTACT** section no later than July 12, 2016. Please provide the following information: Full legal name, country of citizenship, and name of your industry association, or applicable affiliation. If you are attending as a public citizen, please indicate so.

For persons participating by telephone, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section by email or phone for the teleconference call-in number and passcode. Callers are responsible for paying long-distance charges.

The public must arrange by July 12, 2016 to present oral statements at the meeting. The public may present written statements to the Aviation Rulemaking Advisory Committee by providing 25 copies to the Designated Federal Officer, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC, on June 15, 2016.

Dale Bouffiou,

Acting Designated Federal Officer, Aviation Rulemaking Advisory Committee.

[FR Doc. 2016–14589 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Lafayette Parish, Louisiana

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to a final environmental impact statement will be prepared for a proposed highway project in Lafayette Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Joshua Cunningham, Project Delivery Team Leader, Federal Highway Administration, 5304 Flanders Drive, Suite A, Baton Rouge, Louisiana 70808, Telephone: (225) 757–7600.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Louisiana Department of Transportation and Development, and the Lafayette Consolidated Government, will prepare a supplement to the final environmental impact statement (EIS) on a proposal to upgrade route U.S. 90/U.S. 167 in Lafayette Parish, Louisiana. The original EIS for the improvements (FHWA–LA–EIS–00–01–F) was approved on January 8, 2003. The proposed improvements to U.S. 90/U.S. 167 provide a six-lane fully controlled access freeway from just south of the Lafayette Regional Airport north to the southern terminus of Interstate 49 at the Interstate 10/Interstate 49 Interchange, generally along the existing U.S. 90/U.S. 167 corridor (Evangeline Thruway) with a portion on new alignment, in urban Lafayette, for a distance of approximately 5.5 miles. Improvements to the corridor are considered necessary to provide for existing and projected traffic demand and system linkage.

A Reevaluation of the 2003 Record of Decision (ROD) had recently been initiated and was anticipated to include follow-up to the 21 Commitments in the ROD. In consideration of input from the community, various refinements to the approved alternative are being evaluated. Preparation of a supplement to the EIS has been determined to be the appropriate documentation of the potential refinements.

Considerations include (1) constructing the approved alternative as described in the ROD and (2) incorporation of refinements to the approved alternative. Updated information on the effects of the approved alternative will be incorporated into and studied with any refinements.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies and will be posted on the project Web site for public comment. Public involvement activities have been on-going, including two public meetings recently held. Additional public involvement activities, including a public meeting, will be held in Lafayette between June 2016 and the conclusion of this study. In addition, a public hearing will be held. Public notice will be given of the time and place of the meeting and hearing. The draft supplemental EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting will be held.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: June 14, 2016.

Charles Bolinger,

Division Administrator, Baton Rouge.

[FR Doc. 2016–14583 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0436]

Agency Information Collection Activities; Extension of a Currently Approved Information Collection Request: Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval. The FMCSA and the public use the information (which is currently being collected) to verify that a motor carrier of property or passengers has obtained, and has in effect, the required minimum levels of financial responsibility. Statute mandates that motor carriers maintain proof of the required financial responsibility at their principal places of business, available upon request of an FMCSA safety investigator during compliance reviews. Insurance Endorsements and Surety Bonds are considered public information and must be produced by a motor carrier of passengers for review upon reasonable request by a member of the public.

DATES: Please send your comments on or before July 21, 2016. OMB must receive your comments by this date in order to act quickly on the ICR.

ADDRESSES: All comments should reference Federal Docket Management System (FDMS) Docket Number FMCSA–2015–0436. Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/Federal Motor Carrier Safety Administration, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Tura Gatling, Registration, Licensing, and Insurance Division, Office of Registration and Safety Information, Department of Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–385–2415; email: *tura.gatling@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property.

OMB Control Number: 2126–0008.

Type of Request: Extension of a currently-approved information collection.

Respondents: Insurance and surety companies of motor carriers of property (Forms MCS–90 and MCS–82) and motor carriers of passengers (Forms MCS–90B and MCS–82B).

Estimated Number of Respondents: 8,004 [896 insurers for IC1 + 896 insurers for IC2 + 231 insurers for IC3 + 231 insurers for IC4 + 5,750 carriers for IC5 (Canada: 111 passenger carriers + 2,716 property carriers) + (Mexico & NNA: 2 passenger carriers + 2,921 property carriers)].

Estimated Time per Response: The FMCSA estimates it takes two minutes to complete the Endorsement for Motor Carrier Policies of Insurances for Public Liability or the Motor Carrier Public Liability Surety Bond; and one minute to place either document on board the vehicle [49 CFR 387.7(f)(property); 387.31(f)(passengers)]. These endorsements and surety bonds are maintained at the motor carrier's principal place of business [49 CFR 387.7(d); 49 CFR 387.31(d)].

Expiration Date: June 30, 2016.

Frequency of Response: Upon creation, change or replacement of an insurance policy or surety bond.

Estimated Total Annual Burden: 4,777 hours [4,065 annual burden hours for ICs 1–4 + 712 annual burden hours for IC–5 document replacement = 4,777].

Background: The Secretary of Transportation is responsible for implementing regulations which establish minimal levels of financial responsibility for: (1) For-hire motor carriers of property to cover public liability, property damage and environmental restoration, and (2) for-hire motor carriers of passengers to cover public liability and property damage. The Endorsement for Motor Carrier Policies of Insurance for Public Liability (Forms MCS–90/90B) and the Motor Carrier Public Liability Surety Bond (Forms MCS–82/82B) contain the minimum amount of information necessary to document that a motor carrier of property or passengers has obtained, and has in effect, the minimum levels of financial responsibility as set forth in applicable regulations (motor carriers of property—49 CFR 387.9; and motor carriers of passengers—49 CFR 387.33). FMCSA and the public can verify that a motor carrier of property or passengers has obtained, and has in effect, the required minimum levels of financial responsibility, by use of the information enclosed within these documents.

On February 25, 2016, FMCSA published a notice in the **Federal Register** requesting public comments on the "Financial Responsibility for Motor Carriers of Passengers and Motor Carriers of Property" Information Collection Request, OMB Control Number 2126–0008 (81 FR 9582). Two comments were received in response to this notice. FMCSA contacted one of the commenters and determined that the question was about a company-specific FMCSA registration issue unrelated to the notice, which has already been resolved. FMCSA believes the other comment can be interpreted as an advertisement for the commenter's company, and not a question about the notice.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued under the authority delegated in 49 CFR 1.87 on: June 15, 2016.

G. Kelly Regal,

Associate Administrator for Office of Research and Information Technology.

[FR Doc. 2016–14743 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2010–0161]

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated April 8, 2016, the Hoosier Valley Railroad Museum (HVRM), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 223, Railroad Safety Glazing Standards. FRA assigned the petition Docket Number FRA–2010–0161.

HVRM has requested a permanent waiver of compliance for one caboose from the requirements of 49 CFR part 223, which requires certified glazing in all windows. HVRM's five cabooses, B&LE 1989, EL C345, NKP 471, GTW 75072, and EJ&E 184, were previously granted relief from the glazing requirements in FRA's July 14, 2011, decision letter. Since that time, the glazing requirements have been amended to add provisions for glazing on equipment that is over 50 years of age from its original construction date. Only Caboose EJ&E 184, which was built in 1970, does not meet the 50-year threshold in order to be covered under the recently enacted glazing rule for antiquated equipment. Caboose EJ&E 184 is less than 50 years of age and does not meet the glazing requirements of 49 CFR 223.13, and thus requires regulatory relief to continue in operation.

HVRM is a non-profit 501(c)(3) organization located in North Judson, Indiana. It is a member of the Association of Tourist Railroads & Railway Museums, and operates the railroad museum with the mission to preserve railroad history in northwest Indiana. The town of North Judson acquired 33 miles of rail line, purchased in 2004 from CSX Transportation to help maintain a rail corridor for railway excursions provided by HVRM using the heritage equipment. HVRM is all volunteer operated, has 15 or less "hours of service" volunteer workers, and has FRA-approved certification programs for engineers and conductors. HVRM operations/train excursions are conducted primarily on weekends. There are also 10 or less weekday excursions annually for school field trips and community organizations. The town of North Judson contracts with a Class III short line operator, the Chesapeake & Indiana Railroad (CKIN), to maintain the rail line and provide freight service to the rail line customers. The primary freight corridor is Malden to La Crosse to Wellsboro, Indiana. La Crosse contains a wye track used both by HVRM and CKIN for their respective operations. HVRM provides a 30-day advance notice of excursion train schedules to CKIN. Both entities operate under the General Code of Operating Rules and the entire 33-mile rail line is operated under yard limits at speeds not to exceed 20 miles per hour.

HVRM notes that the use of this caboose for tourist, historic, or excursion operations will be on expanded territory as referenced in HVRM's April 11, 2016, letter assigned to FRA Docket Number FRA–2006–24647. In addition to the 10 miles between North Judson and La Crosse, the caboose will occasionally operate in tourist, excursion, and special event trains as far as Malden, South Thomaston, Hanna, and Wellsboro.

The subject caboose, EJ&E 184, is only operated at limited track speed under yard limits subject to the authority of the CKIN, which is part of the general railroad system. HVRM notes that the installed glass in the subject caboose is in good condition, operations are in a benign environment, and the expense of retrofitting the subject caboose with FRA certified glazing imposes a financial burden.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for the request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http:// www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 5, 2016 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2016–14533 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2016–0018]

Notice of Public Hearing for Statutory Exemption

On March 21, 2016, the Federal Railroad Administration (FRA) published a notice in the **Federal Register** (81 FR 15146) regarding the Association of American Railroads' (AAR) request for a waiver of compliance and statutory exemption from certain provisions of Title 49 Code of Federal Regulations (CFR) Part 232–Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices. Specifically, AAR petitioned FRA for a waiver of compliance from 49 CFR 232.213–*Extended haul trains,* 49 CFR 232.15–*Movement of defective equipment,* and 49 CFR 232.103(f)–*General requirements for all train brake systems;* and requests a statutory exemption to 49 U.S.C. 20303–*Moving defective and insecure vehicles needing repairs,* for the purposes of conducting testing to demonstrate the effectiveness of using wayside wheel temperature detector data to ensure safe braking performance. This petition was assigned Docket Number FRA–2016–0018.

Pursuant to 49 U.S.C. 20306–*Exemption for technological improvements,* AAR has requested a hearing during which evidence can be developed for a statutory exemption to 49 U.S.C. 20303. Accordingly, a hearing is scheduled to begin at 10 a.m. September 13, 2016, at the National Housing Center, National Association of Home Builders, 1201 15th Street NW., Washington, DC 20005. Interested parties are invited to present oral statements at this hearing. For information on facilities or services for persons with disabilities, or to request special assistance at the hearing, contact Mr. Steven Zuiderveen, FRA Railroad Safety Specialist, by telephone, email, or in writing, at least 5 business days before the date of the hearing. Mr. Zuiderveen's contact information is as follows: FRA, Office of Railroad Safety, Mail Stop 25, 1200 New Jersey Avenue SE., Washington, DC 20590; (202) 493–6337; *Steven.Zuiderveen@dot.gov.* The informal hearing will be conducted by a representative designated by FRA in accordance with FRA's Rules of Practice (*see* specifically 49 CFR 211.25). FRA's representative will make an opening statement outlining the scope of the hearing, as well as any additional procedures for the conduct of the hearing. The hearing will be a non-adversarial proceeding in which all interested parties will be given the opportunity to express their views regarding the waiver petition without cross examination. After all initial statements have been completed, those individuals wishing to make brief rebuttal statements will be given an opportunity to do so.

In addition, FRA is extending the comment period for this waiver petition to October 13, 2016, to allow adequate time for any additional comments to be submitted following the public hearing scheduled for September 13, 2016.

Communications received by that date will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.* See also *http://www.regulations.gov/#!privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2016–14534 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2012–0033]

Notice of Intent To Grant a Buy America Waiver to the City of Sacramento, California, Department of Public Works, To Use Marmoleum Flooring

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (DOT).

ACTION: Notice of intent to grant Buy America waiver.

SUMMARY: FRA is issuing this notice to advise the public it intends to grant the City of Sacramento, California, Department of Public Works (Sacramento), a waiver from FRA's Buy America requirement to use Walton Cirrus Original Brown #3665 (Brown Marmoleum), in the Sacramento Valley Station Phase II intermodal project.

DATES: Written comments on FRA's determination to grant Sacramento's Buy America waiver request should be provided to the FRA on or before June 28, 2016.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FRA–2012–0033. All electronic submissions must be made to the U.S. Government electronic site at *http://www.regulations.gov.* Commenters should follow the instructions below for mailed and hand-delivered comments:

(1) Web site: http://www.regulations.gov. Follow the instructions for submitting comments on the U.S. Government electronic docket site;

(2) Fax: (202) 493–2251;

(3) Mail: U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, Room W12–140, Washington, DC 20590–0001; or

(4) Hand Delivery: Room W12–140 on the first floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must reference the "Federal Railroad Administration" and include docket number FRA–2012–0033. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties submitting responses to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to *http://www.regulations.gov.* For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. John Johnson, Attorney-Advisor, FRA Office of Chief Counsel, 1200 New Jersey Avenue SE., Mail Stop 10, Washington, DC 20590, (202) 493–0078, *John.Johnson@dot.gov.*

SUPPLEMENTARY INFORMATION:

FRA provides information on its reasons for granting this waiver in a letter to Sacramento, quoted below:

Mr. Gregory Taylor
AIA, Supervising Architect/Project Manager
City of Sacramento, Department of Public Works
915 I Street
Room 2000
Sacramento, CA 95814–2604

Re: Request for Waiver of Buy America Requirement

Dear Mr. Taylor:

As you are aware, on November 24, 2014, the City of Sacramento, California, Department of Public Works (Sacramento) requested a waiver from the Federal Railroad Administration's (FRA) Buy America requirement (49 U.S.C. 24405(a)) to purchase "Marmoleum," specifically the color Walton Cirrus Original Brown #3665 (Brown Marmoleum), a natural linoleum flooring product made by Forbo Flooring Systems in the Netherlands, for use in the Sacramento Valley Station (SVS) Phase II intermodal project.[1] The Brown Marmoleum will cover 1,480 sq. ft and costs approximately $4,690.

The SVS Phase II intermodal project is the rehabilitation of the historic 68,000 square foot train station in downtown Sacramento, California. The $30 million project is partially funded with a $15 million 2012 Transportation Infrastructure Generating Economic Recovery (TIGER) grant. The U.S. Department of Transportation (DOT) selected each project for 2012 TIGER Grant funding based on whether it would, among other things, promote a more environmentally sustainable transportation system. 77 FR 4863, 4867 (January 31, 2012). After rehabilitation, the SVS will include an Amtrak station, commercial retail and office space.

To support its waiver request, Sacramento contends that Brown Marmoleum natural linoleum is the only flooring that meets the standards in the Secretary of Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, and Reconstructing Historic Buildings. Specifically, Sacramento asserts that Brown Marmoleum is the only flooring product that sufficiently matches the design, color, and texture of the original historic flooring used in SVS. Forbo does not manufacture Brown Marmoleum in the United States. After comparing flooring samples to the original flooring, California's State Historic Preservation Office and FRA determined Brown Marmoleum is the only product best matching the original linoleum's design, color, and texture.

Therefore, FRA is granting Sacramento's waiver request. FRA concludes a waiver is appropriate under 49 U.S.C. 24405(a)(2)(B) for Brown Marmoleum because domestically-produced flooring meeting the specific needs of Sacramento for this application (*i.e.,* historic preservation) is not currently "produced in sufficient and reasonably available amount or . . . [is] not of a satisfactory quality." 49 U.S.C. 24405(a)(2)(B).

Pursuant to 49 U.S.C. 24405(a)(4), FRA will publish this letter granting Sacramento's request in the **Federal Register** and provide notice of such finding and an opportunity for public comment after which this waiver will become effective.

Questions about this letter can be directed to, John Johnson, Attorney-Advisor, at *John.Johnson@dot.gov* or (202) 493–0078.

Sincerely,
Sarah E. Feinberg
Administrator

Issued in Washington, DC, on June 15, 2016.

Amitabha Bose,
Chief Counsel.

[FR Doc. 2016–14554 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–06–P

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[1] Sacramento also requested a waiver for Sacramento requested a non-availability Buy America waiver for a variable refrigerant flow (VRF) heating, ventilation, and air conditioning (HVAC) system to be installed into SVS. However, FRA chose to bifurcate the waiver requests since the VRF waiver was more advanced in terms of processing and was pivotal to Sacramento. FRA granted a waiver for the VRF system on June 4, 2015. *https://www.fra.dot.gov/eLib/Details/L16619.*

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016–0062]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SEACROPPER II; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 21, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0062. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of

Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SEACROPPER II is:

Intended Commercial Use Of Vessel: "Charter Fishing."

Geographic Region: "Florida."

The complete application is given in DOT docket MARAD–2016–0062 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: June 14, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–14664 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016–0060]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SAPHIRA; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 21, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0060. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel SAPHIRA is:

Intended Commercial Use of Vessel: Day Charter.

Geographic Region: Hawaii.

The complete application is given in DOT docket MARAD–2016–0060 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: June 14, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–14655 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016–0059]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel BALAJAN; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 21, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0059. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel BALAJAN is:

Intended Commercial Use of Vessel: "San Francisco Bay Sailing Tours".

Geographic Region: "California".

The complete application is given in DOT docket MARAD–2016–0059 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: June 14, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–14662 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2016–0061]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel HEAD PELICAN; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 21, 2016.

ADDRESSES: Comments should refer to docket number MARAD–2016–0061. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–9309, Email *Bianca.carr@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel HEAD PELICAN is:

Intended Commercial Use of Vessel: Private Vessel Charters, Passengers Only. Cruises and corporate executive sightseeing tours.

Geographic Region: California, Oregon and Washington. LIMITED charters in Alaska, EXCLUDING waters in Southeastern Alaska and waters north of a line between Gore Point to Cape Suckling—including the North Gulf Coast and Prince William Sound).

The complete application is given in DOT docket MARAD–2016–0061 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: June 14, 2016.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2016–14663 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0071]

Pipeline Safety: Ineffective Protection, Detection, and Mitigation of Corrosion Resulting From Insulated Coatings on Buried Pipelines

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice; Issuance of Advisory Bulletin.

SUMMARY: PHMSA is issuing this advisory bulletin to remind all owners and operators of hazardous liquid, carbon dioxide, and gas pipelines, as defined in 49 Code of Federal Regulations (CFR) Parts 192 and 195, to

consider the overall integrity of the facilities to ensure the safety of the public and operating personnel and to protect the environment. Operators are reminded to review their pipeline operations to ensure that pipeline segments that are both buried and insulated have effective coating and corrosion-control systems to protect against cathodic protection shielding, conduct in-line inspections for all threats, and ensure in-line inspection tool findings are accurate, verified, and conducted for all pipeline threats.

FOR FURTHER INFORMATION CONTACT: Operators of pipelines subject to regulation by PHMSA should contact Mr. Kenneth Lee at 202–366–2694 or email to: *kenneth.lee@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 2015, the Plains Pipeline, L.P. (Plains), Line 901, a 24-inch pipeline in Santa Barbara County, California, ruptured, resulting in the release of approximately 2,934 barrels of heavy crude oil. The spill resulted in substantial damage to natural habitats and wildlife. This buried pipeline failed due to extensive external corrosion that occurred under the insulated coating.

The Line 901 pipeline is coated with coal tar urethane and covered with foam insulation which, in turn, is covered by a tape wrap over the insulation. Shrink wrap sleeves, which provide a barrier between the steel pipeline and soil for corrosion prevention, are present at the pipeline joints (girth welds) on Line 901. Line 901 carried high-viscosity crude oil at a temperature of approximately 135 degrees Fahrenheit to facilitate transport. Line 901's pipe specifications are API 5L, Grade X–65 pipe, 0.344-inch wall thickness, with a high frequency-electric resistance welded (HF–ERW) long seam. Line 901 was hydrotested to 1,686 pounds per square inch gauge (psig) on November 25, 1990, and has a maximum operating pressure (MOP) of 1,341 psig. Line 901 delivered crude oil into 30-inch Line 903. Line 901 is 10.7 miles in length and Line 903 is 128 miles in length. Line 903 has similar insulated coating and shrink wrap sleeves at girth welds.

Under 49 CFR 195.563, cathodic protection (CP) is required to prevent external corrosion of buried pipelines. Historical CP records for Line 901 revealed protection levels that typically are sufficient to protect non-insulated, buried, coated steel pipe. As mentioned previously, however, Line 901 and Line 903 are insulated. An increasing frequency and extent of corrosion anomalies were noted on both Lines 901 and 903 on in-line inspection tool (ILI) survey results, anomaly excavations, and repairs. PHMSA inspectors noted moisture entrained in the insulation at four excavations performed by Plains on Line 901 after the May 19, 2015 spill.

Plains conducted ILI surveys on Line 901 to assess the integrity of the pipeline in accordance with pipeline safety regulations in 2007, 2012, and 2015. Under § 195.452(j)(3), all pipelines are required to be surveyed at intervals commensurate with the pipeline's risk of integrity threats, but at least every five years. Plains changed Line 901 from a five-year assessment cycle to a three-year assessment cycle after the 2012 ILI survey. Preliminary data from the results of the ILI surveys are summarized below and show a growing number of corrosion anomalies on Line 901. Discrepancies between the ILI data generated during the 2007 and 2012 surveys of Line 901 and the "as found" anomaly sizes discovered in correlation digs after those prior surveys had not been shared with the ILI vendor to reanalyze the data. The frequency and magnitude of the anomalies below are derived from the reported ILI vendor analysis.

24-INCH LINE 901—ILI ASSESSMENT RESULTS

Metal loss	June 19, 2007	July 3, 2012	May 6, 2015*
Greater than 80%	0	0	2
60 to 79%	2	5	12
40 to 59%	12	54	80

* Results not received until after spill.

The most recent ILI survey for Line 901 was completed on May 6, 2015. At the time of the spill, the preliminary vendor report had not been received. As a result, no correlation digs for this ILI survey had been attempted.

The May 6, 2015, ILI survey data and subsequent analysis by the ILI vendor predicted external corrosion at the failure site with an area of 5.38 inches by 5.45 inches, and a maximum depth of 47% of the original pipe wall thickness. After the failure, the metallurgical investigators physically measured external corrosion at the failure site to have a maximum depth of 89%. The dimensions of the corrosion feature were 12.1 inches axially by 7.4 inches in circumference. The maximum depth, as measured using laser scan data, was 0.318 inches or 89% of the measured pipe wall thickness (0.359 inches). Discrepancies between the historic ILI data and the "as found" anomaly size had not been shared with the ILI vendor to reanalyze the data.

PHMSA determined that the proximate or direct cause of the release was progressive external corrosion of the insulated, buried steel pipeline. The corrosion occurred under the pipeline's coating system, which consisted of a urethane coal tar coating applied directly to the bare steel pipe, covered by foam thermal insulation with an overlying tape wrap. Water was noted in the foam insulation at a number of digs, indicating that the integrity of the coating system had been compromised. The external corrosion was facilitated by the environment's wet/dry cycling, as determined by the PHMSA-approved, third-party metallurgical laboratory. The release was a single event caused at an area where external corrosion had thinned the pipeline wall thickness. There is no evidence that the pipeline leaked before the rupture. There was a telltale "fish mouth" (a split due to over-pressurization) at the release site indicating the line failed in a single event.

PHMSA's Failure Investigation Report indicated that the proximate or direct cause of the Line 901 failure was external corrosion that thinned the pipe wall to a level where it ruptured suddenly and released heavy crude oil. PHMSA's Failure Investigation Report of the Plains Line 901 incident can be reviewed at:*.http://phmsa.dot.gov/staticfiles//PHMSA/DownloadableFiles/Files/PHMSA_Failure_Investigation_Report_Plains_Pipeline_LP_Line_901_Public.pdf.* PHMSA's investigation identified numerous contributory causes of the rupture, including:

(1) Ineffective protection against external corrosion of the pipeline:

- The condition of the pipeline's coating and insulation system fostered an environment that led to external corrosion; and

- The pipeline's CP system was not effective in preventing corrosion from occurring beneath the pipeline's coating/insulation system.

(2) Failure to detect and mitigate the corrosion:

- The ILI and subsequent analysis of ILI data did not characterize the extent and depth of the external corrosion accurately.

Corrosion under insulation (CUI) is recognized as an integrity threat difficult to address through conventional cathodic protection systems and can lead to accelerated wall-loss corrosion and stress corrosion cracking of the pipe steel. A NACE International (NACE) technical committee report titled "Effectiveness of Cathodic Protection on Thermally Insulated Underground Metallic Structures" dated September 2006 (NACE International Publication 10A392, 2006 Edition), was prepared as a guide for external corrosion control of thermally-insulated underground metallic surfaces and considerations of the effectiveness of CP. A summary of the NACE report's conclusions are as follows:

(1) "Generally, the application of external CP to thermally insulated metallic surfaces has been ineffective.

(2) The principal or primary means of corrosion control of thermally-insulated metallic surfaces is the application of an effective coating on the metallic surface.

(3) Care is typically taken in the application of the external jacket and during pipe installation to minimize water ingress, which causes corrosion at imperfections in the primary coating.

(4) When practical, the thermally insulated metallic surfaces need to be inspected at routine time intervals for metal loss (*e.g.*, an internal pipeline inspection tool could be used)."

II. Advisory Bulletin (ADB–2016–04)

To: Owners and Operators of Hazardous Liquid, Carbon Dioxide and Gas Pipelines.

Subject: Ineffective Protection, Detection, and Mitigation of Corrosion Resulting from Insulated Coatings on Buried Pipelines.

Advisory: Operators of hazardous liquid, carbon dioxide and gas pipelines, as defined in 49 CFR parts 192 and 195, should review their operating, maintenance, and integrity management activities to ensure that their insulated and buried pipelines have effective cathodic protection systems, including coating systems to protect against cathodic protection shielding and moisture under the coatings with higher operating temperatures, and in-line inspection tool findings are accurate, verified, and the in-line tools are appropriate for the pipeline threat. This bulletin is intended to inform operators about PHMSA' failure investigation of the Plains Pipeline May 19, 2015, accident in Santa Barbara, California and to urge operators to take all necessary actions, including, but not limited to, those set forth in this bulletin, to prevent and mitigate the breach of integrity, leaks, and/or failures of their pipeline facilities and to ensure the safety of the public and operating personnel and to protect the environment.

Operators must have and implement procedures to operate, maintain, assess, and repair their pipelines. These procedures for insulated and buried pipelines should take into consideration:

(1) The need for coatings and cathodic protection systems to be designed, installed, and maintained so as not to foster an environment of shielding and moisture that can lead to excessive external corrosion growth rates and pipe steel cracking such as stress corrosion cracking.

(2) Coatings for buried, insulated pipelines that may result in cathodic protection "shielding" yet still comply with 49 CFR part 192, subpart I or 49 CFR part 195, subpart H. Inadequate corrosion prevention may be addressed through any one or more methods, or a combination of methods, including, but not limited to, the following:

- Replacing insulated and buried pipelines with compromised coating systems or inadequate cathodic protections systems;
- Repairing or re-coating compromised portions of the coating on insulated and buried pipelines to ensure adequate corrosion control; or
- Taking other special precautions if an operator suspects that adequate cathodic protection cannot be provided due to shielding resulting from insulated coatings that have become disbonded. Such precautions may include:
  - More frequent reassessments;
  - Usage of the appropriate assessment tools for all threats including stress corrosion cracking;
  - Coordination of data from the appropriate ILI technologies;
  - More stringent repair criteria targeted at CUI or corrosion under disbonded coatings for insulated and buried pipelines;
  - Usage of a leak detection system with instrumentation and associated calculations to monitor line pack (the total volume of liquid present in a pipeline section) along all portions of the pipeline when it is operating or shut down; and
  - Valve spacing to limit any possible spill volumes with remotely operated valves and pressure monitoring at the valves.

(3) Advanced ILI data analysis techniques to account for the potential growth of CUI, including interaction criteria for anomaly assessment.

(4) ILI data, subsequent analysis of the data, and pipeline excavations that:

- Confirm the accuracy of the ILI data to characterize the extent and depth of the external corrosion and ILI tolerances and unity charts;
- Follow the ILI guidelines of API Standard 1163, "In-Line Inspection Systems Qualification Standard" 2nd edition, April 2013, (API Std. 1163) for ILI assessments;
- Use additional or more frequent reassessment intervals and confirmations when the insulated and buried pipeline external coating, shields the pipeline from CP, retains moisture on insulated coating systems, and operates at higher operating temperatures; and
- Assess and mitigate operational and environmental conditions in shielded and insulated coatings that lead to excessive corrosion growth rates, pipe steel cracking, and all other threats.

In addition to the above, an operator's operating and maintenance processes and procedures should be reviewed and updated at least annually, unless operational inspections for integrity warrant shorter review periods.

Issued in Washington, DC, on June 15, 2016, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Acting Associate Administrator for Pipeline Safety.

[FR Doc. 2016–14651 Filed 6–20–16; 8:45 am]

BILLING CODE 4910–60–W

DEPARTMENT OF VETERANS AFFAIRS

Health Services Research and Development Service, Scientific Merit Review Board; Notice of Meetings

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Health Services Research and Development Service Scientific Merit Review Board will conduct in-person and teleconference meetings of its seven Health Services Research (HSR) subcommittees on the dates below from 8:00 a.m. to approximately 5:00 p.m. (unless otherwise listed) at the Hilton

Crystal City, 2399 Jefferson Davis Highway, Crystal City, VA 22202 (unless otherwise listed):

- HSR 1—Health Care and Clinical Management on August 23–24, 2016;
- HSR 2—Behavioral, Social, and Cultural Determinants of Health and Care on August 23–24, 2016;
- HSR 4—Mental and Behavioral Health on August 23–24, 2016;
- HSR 5—Health Care System Organization and Delivery on August 23–24, 2016;
- CDA—Career Development Award Meeting on August 25–26, 2016;
- HSR 3—Healthcare Informatics on August 24–25, 2016;
- NRI—Nursing Research Initiative from 1:00 p.m. to 5:00 p.m. on August 26, 2016;
- HSR 6—Post-acute and Long-term Care on August 25, 2016;
- HSR 8—Randomized Program Evaluations from 8:00 a.m. to 12:00 p.m. on August 25, 2016; and
- HSR 0—Precision Mental Health from 1:00 p.m. to 5:00 p.m. on August 25, 2016.

The purpose of the Board is to review health services research and development applications involving: The measurement and evaluation of health care services; the testing of new methods of health care delivery and management; and nursing research. Applications are reviewed for scientific and technical merit, mission relevance, and the protection of human and animal subjects. Recommendations regarding funding are submitted to the Chief Research and Development Officer.

Each subcommittee meeting of the Board will be open to the public the first day for approximately one half-hour at the start of the meeting on August 23–24 (HSR 1, 2, 4, 5), August 24–25 (HSR 3), August 25 (HSR 0, 6, 8), August 25–26 (CDA), and August 26 (NRI) to cover administrative matters and to discuss the general status of the program. Members of the public who wish to attend the open portion of the subcommittee meetings may dial 1–800–767–1750, participant code 10443#.

The remaining portion of each subcommittee meeting will be closed for the discussion, examination, reference to, and oral review of the intramural research proposals and critiques. During the closed portion of each subcommittee meeting, discussion and recommendations will include qualifications of the personnel conducting the studies (the disclosure of which would constitute a clearly unwarranted invasion of personal privacy), as well as research information (the premature disclosure of which would likely compromise significantly the implementation of proposed agency action regarding such research projects). As provided by subsection 10(d) of Public Law 92–463, as amended by Public Law 94–409, closing the meeting is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

No oral or written comments will be accepted from the public for either portion of the meetings. Those who plan to participate during the open portion of a subcommittee meeting should contact Ms. Liza Catucci, Administrative Officer, Department of Veterans Affairs, Health Services Research and Development Service (10P9H), 810 Vermont Avenue NW., Washington, DC 20420, or by email at *Liza.Catucci@va.gov*. For further information, please call Ms. Catucci at (202) 443–5797.

Dated: June 16, 2016.

Jelessa Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2016–14639 Filed 6–20–16; 8:45 am]

BILLING CODE 8320–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

FEDERAL REGISTER

Vol. 81 Tuesday,
No. 119 June 21, 2016

Part II

Department of the Treasury

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 1, 4, 5, 7, et al.

Amendments To Streamline Importation of Distilled Spirits, Wine, Beer, Malt Beverages, Tobacco Products, Processed Tobacco, and Cigarette Papers and Tubes, and Facilitate Use of the International Trade Data System; Proposed Rule

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Parts 1, 4, 5, 7, 26, 27, and 41

[Docket No. TTB–2016–0004; Notice No. 159]

RIN 1513–AC15

Amendments To Streamline Importation of Distilled Spirits, Wine, Beer, Malt Beverages, Tobacco Products, Processed Tobacco, and Cigarette Papers and Tubes, and Facilitate Use of the International Trade Data System

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this document, the Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to amend its regulations governing the importation of distilled spirits, wine, beer and malt beverages, tobacco products, processed tobacco, and cigarette papers and tubes. The proposed amendments are intended to clarify and streamline import procedures, and support the implementation of the International Trade Data System and the filing of import information electronically in conjunction with an electronic import filing with U.S. Customs and Border Protection (CBP). The proposed amendments include providing the option for importers to file import-related data electronically when filing entry or entry summary data electronically with CBP, as an alternative to the current TTB requirements that importers submit paper documents to CBP upon importation.

DATES: Comments must be received on or before August 22, 2016.

ADDRESSES: Please send your comments on this proposed rule to one of the following addresses. Comments submitted by other methods, including email, will not be accepted.

- *Internet: https://www.regulations.gov* (via the online comment form for this document as posted within Docket No. TTB–2016–0004 at "*Regulations.gov,*" the Federal e-rulemaking portal);
- *U.S. Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; or
- *Hand delivery/courier in lieu of mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 400, Washington, DC 20005.

See the Public Participation section of this document for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of this document, selected supporting materials, and any comments TTB receives about this proposal at *https://www.regulations.gov* within Docket No. TTB–2016–0004. A direct link to this docket is posted on the TTB Web site at *https://www.ttb.gov/regulations_laws/all_rulemaking.shtml* under Notice No. 159. You also may view copies of this document, all related supporting materials, and any comments TTB receives about this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. Please call 202–453–2270 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Karen Welch, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; telephone (202) 453–1039, extension 046.

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I. Background

A. TTB Authority

The Alcohol and Tobacco Tax and Trade Bureau (TTB) of the Department of the Treasury regulates, among other things, the importation of distilled spirits, wine, and malt beverages[1] pursuant to the Federal Alcohol Administration Act (FAA Act). TTB also administers the provisions of the Internal Revenue Code of 1986, as amended (IRC), with respect to the taxation of distilled spirits, wine, beer,[2] tobacco products, processed tobacco, and cigarette papers and tubes. These statutory provisions are the basis of TTB regulations that require importers to submit certain information upon importation.

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[1] The FAA Act defines "malt beverage" as "a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption." See 27 U.S.C. 211(a)(7). Throughout this document, the term "malt beverage" is used in reference to the FAA Act or regulations promulgated thereunder.

[2] The IRC defines "beer" as "beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor." See 26 U.S.C. 5052(a). Throughout this document, the term "beer" is used in reference to the IRC or regulations promulgated thereunder.

Section 103(a) of the FAA Act (27 U.S.C. 203(a)) requires that a person obtain a permit before engaging in certain activities related to distilled spirits, wine, and malt beverages, including importation. This section of the FAA Act states that it shall be unlawful, except pursuant to a "basic permit" issued by the Secretary of the Treasury (the Secretary), to engage in the business of importing into the United States distilled spirits, wine, or malt beverages. Section 103(a) of the FAA Act also states that it is unlawful, except pursuant to a basic permit, for any person so engaged to sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits, wine, or malt beverages so imported. The terms "distilled spirits" and "wine," when used in the context of the FAA Act, apply only to distilled spirits and wine for nonindustrial use.

Additionally, section 105(e) of the FAA Act (27 U.S.C. 205(e)) authorizes the Secretary to prescribe regulations relating to the packaging, marking, branding, labeling, and size and fill of containers of distilled spirits, wine, and malt beverages. With regard to imported commodities, the FAA Act provides that no person shall remove from customs custody, in bottles, for sale or any other commercial purpose, distilled spirits, wine, or malt beverages, without having obtained a certificate of label approval (COLA) and being in possession of that COLA.

Chapter 51 of the IRC pertains to the taxation and regulation of distilled spirits (including spirits used for both beverage and nonbeverage purposes), wine, and beer (see 26 U.S.C. chapter 51). The IRC imposes a Federal excise tax on all distilled spirits, wine, and beer manufactured in or imported into the United States. See, respectively, 26 U.S.C. 5001, 5041, and 5051. Section 7652 (26 U.S.C. 7652) imposes a tax on distilled spirits, wine, and beer brought into the United States from Puerto Rico and the U.S. Virgin Islands. The tax is equal to the internal revenue tax imposed on like commodities produced in the United States.

In general, the tax on distilled spirits, wine, and beer either imported from foreign countries or brought into the United States from the U.S. Virgin Islands is collected by CBP, along with any import duties. Puerto Rico is within the customs territory of the United States, and, as a result, shipments of such products from Puerto Rico do not pass through customs custody when brought into the United States. Furthermore, Puerto Rico is part of the United States for purposes of the FAA Act. See 27 U.S.C. 211(a)(1). This proposed rule primarily addresses amendments to the TTB regulations to facilitate the electronic filing of information with CBP, and, as a result, distilled spirits, wine, and beer brought into the United States from Puerto Rico are not addressed in this document.

The IRC provides that, under limited circumstances, products may be withdrawn from customs custody without payment of tax for transfer to the bonded premises of an industry member regulated by TTB. Proprietors of distilled spirits plants must apply for and receive notice of a registration before commencing operations in the United States. See 26 U.S.C. 5171. Proprietors of bonded wine cellars must also apply for and receive permission to operate before commencing operations in the United States. See 26 U.S.C. 5351. Brewers must file a notice before commencing business as a brewer in the United States. See 26 U.S.C. 5401. TTB assigns a registry number, referred to in this document as the "IRC registry number," to each such distilled spirits plant, bonded wine cellar, and brewery at which operations are to be conducted. The IRC registry number issued to distilled spirits plants has been historically referred to as the "distilled spirits plant number."

Under sections 5232, 5364, and 5418 of the IRC (26 U.S.C. 5232, 5364, and 5418), distilled spirits may be imported in bulk and released from customs custody without payment of excise tax for transfer in bond to a distilled spirits plant; natural wine (as defined in 26 U.S.C. 5381) may be imported in bulk and released from customs custody without payment of excise tax for transfer in bond to a bonded wine cellar; and beer may be imported in bulk and released from customs custody without payment of excise tax for transfer in bond to a brewery. Under these circumstances, the proprietor of the bonded premises becomes liable for the tax on the product upon its release from customs custody, and the applicable tax is collected by TTB when the product is removed from the distilled spirits plant, bonded wine cellar, or brewery, respectively.

The IRC also contains provisions under which imported distilled spirits may be entered free of tax by the United States or any governmental agency of the United States for nonbeverage purposes. See 26 U.S.C. 5313; 5314(b). Furthermore, industrial alcohol may under certain circumstances be brought into the United States free of tax from the U.S. Virgin Islands by qualified industrial alcohol users. See 26 U.S.C. 5314(b).

Chapter 52 of the IRC contains excise tax and related provisions pertaining to tobacco products and cigarette papers and tubes. Section 5701 of the IRC (26 U.S.C. 5701) imposes Federal excise tax on such commodities manufactured in or imported into the United States. Section 7652 (26 U.S.C. 7652) imposes a tax on tobacco products and cigarette papers and tubes brought into the United States from Puerto Rico and the U.S. Virgin Islands. The tax is equal to the internal revenue tax imposed on like commodities produced in the United States. Such commodities brought into the United States from Puerto Rico are not addressed in this document.

In general, the tax on tobacco products and cigarette papers and tubes either imported from foreign countries or brought into the United States from the U.S. Virgin Islands is collected by CBP, along with any import duties. Under 26 U.S.C. 5704, imported tobacco products and cigarette papers and tubes may be released from customs custody without payment of tax for delivery to the proprietor of an export warehouse [3] or to a manufacturer of tobacco products or cigarette papers and tubes if such commodities are not put up in packages, in accordance with such regulations and under such bond as the Secretary shall prescribe. See 26 U.S.C. 5704(c). Imported tobacco products and cigarette papers and tubes previously exported and returned may be released from customs custody without payment of tax for delivery to the original manufacturer or to an export warehouse proprietor authorized by such manufacturer to receive the commodities, in accordance with such regulations and under such bond as the Secretary shall prescribe. See 26 U.S.C. 5704(d).

Chapter 52 of the IRC also contains provisions pertaining to the manufacture and importation of processed tobacco, which is not subject to tax. Section 5712 of the IRC (26 U.S.C. 5712) requires that importers of tobacco products or processed tobacco, before engaging in such businesses, apply for and obtain a permit.

TTB administers the FAA Act and chapters 51 and 52 of the IRC pursuant to section 1111(d) of the Homeland Security Act of 2002, as codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01, dated December 10, 2013 (superseding Treasury Department Order 120–01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these provisions. Responsibility for collecting the excise taxes incident to the importation of distilled spirits, wines, beer, tobacco products, and cigarette papers and tubes is vested by statute with the Secretary of the Treasury. See 26 U.S.C. 7801. TTB regulations provide that such taxes are collected, accounted for, and deposited as internal revenue collections by customs in accordance with customs requirements. See 27 CFR 27.48 and 41.62. Under the authority of the Homeland Security Act of 2002, see 6 U.S.C. 212 and 215(1), the Secretary has delegated these customs revenue functions to the Secretary of Homeland Security. See Treasury Department Order 100–16, 68 FR 28322 (May 23, 2003).

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[3] Under the IRC at 26 U.S.C. 5702(h), an export warehouse is a bonded internal revenue warehouse for the storage of tobacco products or cigarette papers or tubes or any processed tobacco, upon which the internal revenue tax has not been paid, for subsequent shipment to a foreign country, Puerto Rico, the U.S. Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

TTB has authority under section 2(d) of the FAA Act, Pub. L. 74–401 (1935) "to prescribe such rules and regulations as may be necessary to carry out [its] powers and duties" under the FAA Act. In addition, as previously mentioned, section 105(e) of the FAA Act (27 U.S.C. 205(e)), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. Section 7805(a) of the IRC (26 U.S.C. 7805(a)) provides the general authority to the Secretary to issue regulations to carry out the provisions of the IRC.

The TTB regulations that implement the basic permit requirements of the FAA Act are set forth in part 1 of title 27 of the Code of Federal Regulations (27 CFR part I).

The TTB regulations that implement the labeling provisions of the FAA Act, as they relate to wine, distilled spirits, and malt beverages, are set forth in 27 CFR part 4, Labeling and Advertising of Wine (27 CFR part 4); 27 CFR part 5, Labeling and Advertising of Distilled Spirits (27 CFR part 5); and 27 CFR part 7, Labeling and Advertising of Malt Beverages (27 CFR part 7). For imported alcohol beverages specifically, these regulations include several requirements related to certification by a foreign government of the origin and, in some cases, age, vintage date, or method of production of the alcohol beverage.

Regulations implementing the importation-related provisions of chapter 51 of the IRC are found in 27 CFR part 27. Specifically, this part contains procedural and substantive requirements that apply to the importation of distilled spirits, wine, and beer into the United States from foreign countries, including requirements related to recordkeeping and reporting. Regulations implementing the IRC as it applies to distilled spirits, wine, and beer brought into the United States from Puerto Rico or the U.S. Virgin Islands are found in 27 CFR part 26.[4]

Regulations implementing the importation-related provisions of chapter 52 of the IRC are found in 27 CFR part 41. Specifically, this part governs the importation of tobacco products, cigarette papers and tubes, and processed tobacco, including requirements related to permits, recordkeeping, and reporting. Part 41 includes provisions applicable to such commodities brought into the United States from Puerto Rico or the U.S. Virgin Islands.

B. The International Trade Data System

The International Trade Data System (ITDS) is an interagency program to establish an electronic "single window" through which importers and exporters may submit electronically the data required by Federal government agencies for clearing imports or exports. Section 405 of the Security and Accountability for Every Port Act of 2006 (SAFE Port Act) (Pub. L. 109–347) mandates participation in ITDS by all agencies that require documentation for clearing or licensing the importation and exportation of cargo. The purpose of ITDS is to eliminate redundant information requirements, to efficiently regulate the flow of commerce, and to effectively enforce laws and regulations relating to international trade, by establishing a single window, operated by CBP, for the collection and distribution of standard electronic import and export data required by Federal agencies.

Currently, importers and exporters that are regulated by multiple agencies or that import or export commodities regulated by multiple agencies must submit data to those agencies through various channels, often in paper form. Through the implementation of ITDS, data will be entered into the Automated Commercial Environment (ACE) and then made available to each government agency. The "single window" is intended to streamline and harmonize data requirements, thereby reducing compliance burdens on importers and exporters. Accordingly, TTB is providing electronic filing options for the importation of commodities regulated by TTB.

C. Executive Order—Streamlining the Export/Import Process for America's Businesses

On February 19, 2014, the President issued Executive Order 13659, "Streamlining the Export/Import Process for America's Businesses."[5] The Executive Order mandated that agencies be able to utilize ITDS by December 31, 2016. The Executive Order also directed Federal agencies that use ITDS to review their existing regulations for the import and export of goods to determine whether those regulations should be modified to implement ITDS and further improve and streamline existing processes for import and export, and if so, to initiate rulemaking to implement those modifications.

D. Electronic Submission of TTB-Required Information to CBP

The TTB provisions applicable to imports include requirements that importers submit information or documentation at importation to CBP. That information can be submitted electronically pursuant to 27 CFR 73.40. That section provides that a regulated entity may satisfy any requirement in the TTB regulations to submit a form to another agency by submitting the form to that other agency by electronic means, as long as that agency provides for, and authorizes, the electronic submission of the form and any registration and other requirements to use the electronic submission functionality are met. In part 73, the term "form" includes any documentation required to be submitted.

Section 73.40 was the result of amendments to the TTB regulations published in the **Federal Register** (79 FR 17029) on March 27, 2014, as a final rule, T.D. TTB–119, and it generally removes any regulatory barrier to the submission of documents to CBP electronically. TTB is issuing this document to propose changes to each of the TTB regulatory sections that address the submission of information or documentation at importation, in order to update TTB regulatory processes for imports and provide a specific electronic filing option for the submission of certain TTB information at importation using the Partner Government Agency (PGA) Message Set. Technical instructions on the submission of data using TTB's PGA Message Set, including the formatting of TTB's PGA Message Set, are available in "ACE Filing Instructions for TTB-Regulated Commodities" at Docket No. TTB–2016–0004 on *Regulations.gov.* Importers may test the usability and functionality of the TTB PGA Message Set through participation in a pilot program announced by TTB in a **Federal Register** notice, "Importation of Distilled Spirits, Wine, Beer, Tobacco Products, Processed Tobacco, and Cigarette Papers and Tubes; Availability of Pilot Program and Filing Instructions to Test the Collection of Import Data for Implementation of the International Trade Data System," (80 FR 47558, August 7, 2015).

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[4] 27 CFR part 26 also contains regulations applicable to articles, which are generally defined in § 26.11 as preparations unfit for beverage use. Such articles are not within the scope of this rulemaking.

[5] See *https://www.whitehouse.gov/the-press-office/2014/02/19/executive-order-streamlining-exportimport-process-america-s-businesses.*

TTB notes that under this proposed regulation, importers may elect not to file any TTB data electronically.

E. Relationship to Other Notices of Proposed Rulemaking

In this rulemaking, TTB is proposing amendments to certain regulations in 27 CFR parts 4, 5, and 7 to specifically accommodate electronic filing. Interested parties should note that, as announced in the Department of the Treasury's semiannual regulatory agenda (available online at *www.reginfo.gov*), TTB plans to publish a notice of proposed rulemaking titled "Modernization of the Alcohol Beverage Labeling and Advertising Regulations," in which TTB will propose broader amendments to the regulations in 27 CFR parts 4, 5, and 7. Interested parties should review and consider the proposals in each document and comment accordingly.

II. General Approach to Regulatory Amendments

In a number of instances, the current TTB regulations refer to the submission of paper documents (sometimes in triplicate) by importers to obtain release of TTB-regulated products from customs custody. These regulations were promulgated in the context of an environment in which paper copies were the primary means of communicating to customs officers that importers had met certain IRC or FAA Act requirements that apply at importation. The paper documents communicate to CBP, for example, that TTB had reviewed, and authorized the use of, a certain label on an alcohol beverage and, as a result, the products bearing the label were eligible for release from customs custody. Implementation of ITDS provides another means for the communication of such information to take place—via the submission and sharing of data electronically. In general, the proposed regulations set forth new information submission requirements to better support administration and enforcement of the IRC and FAA Act with regard to imports, and require information to be submitted and/or made available through one of the following methods: (1) The electronic submission of TTB-required data along with the submission of the customs entry or entry summary, as appropriate; or (2) the retention and provision of information only upon specific request by TTB or CBP.

With regard to electronic submissions of information, there are generally two methods: Electronic submission of data directly and electronic submission of documents as electronic images. In many instances, TTB is proposing the former, that is, to provide importers with the option to submit required information electronically rather than to submit paper documents. The proposed regulations also allow for the submission of certain paper documents through electronic means. In circumstances in which the proposed regulations require that the importer make the document available to TTB or CBP upon request, such documents may be provided as an electronic image.

With regard to requests for documentation by TTB or CBP, the proposed regulations generally refer to requests being made "by the appropriate TTB officer or a customs officer." The regulations reference both TTB and CBP because, in general, CBP may request information or documentation as part of the entry process, while TTB may request information after release of the shipment from customs custody to verify compliance with import requirements or as part of the review of claims for refund or credit of tax. The term "appropriate TTB officer" here refers to TTB officers who have been delegated the TTB Administrator's authority through the issuance of a TTB Delegation Order. There is a delegation order applicable to each part of the TTB regulations that sets forth the "appropriate TTB officer" for each reference in that part. The delegation orders are available on the TTB Web site at *https://www.ttb.gov.* The term "customs officer" is currently defined in parts 26, 27, and 41 of the TTB regulations, at 27 CFR 26.11, 27.11, and 41.11. TTB is proposing to update those definitions. The proposed amendment would replace references in §§ 26.11 and 27.11 to "the Customs Service" with references to U.S. Customs and Border Protection or CBP, where appropriate. The proposed amendment would also remove references to the Secretary of the Treasury as well as the reference in § 41.11 to the Secretary of Homeland Security. It would also remove the redundant references in §§ 26.11 and 27.11 to commissioned, warrant, and petty officers of the Coast Guard because those officers are authorized by law to perform the duties of a customs officer, and so are included in the definition without being specifically named there. See 14 U.S.C. 143. The proposed amendment would instead refer more broadly to "any agent or other person authorized by law to perform such duties." The proposed regulations also include the addition of a definition of "customs officer" in parts 4, 5, and 7 (at 27 CFR 4.10, 5.11, and 7.10).

Finally, a number of current TTB regulations refer to CBP actions and processes, such as CBP's release of a shipment upon receipt of proper documentation or CBP's inspection of shipments and its notation of information on TTB forms. In this document, TTB is proposing to remove most references to actions that CBP will take at entry and replace them with text that sets forth the requirements that apply to importers at entry.

III. Proposed Changes to the Regulations

A. Filing of the Basic Permit Number by Importers of Alcohol Beverages

As noted previously, the FAA Act requires that an importer obtain a basic permit to engage in the business of importing into the United States distilled spirits, wine, or malt beverages, or to sell, offer or deliver for sale, contract to sell, or ship, in interstate or foreign commerce, directly or indirectly or through an affiliate, distilled spirits, wine, or malt beverages so imported. TTB issues these basic permits.

Provisions addressing the FAA Act basic permit are set forth in the TTB regulations in part 1. The permit requirement is restated in 27 CFR 1.20. Consistent with 27 U.S.C. 203, the regulations at 27 CFR 1.23 provide that the basic permit requirement does not apply to any agency of a State or political subdivision thereof, or to any officer or employee of any such agency. Section 1.58 (27 CFR 1.58) requires every person receiving a basic permit to file the permit at the place of business covered by the permit, so that it may be available to be examined by the appropriate TTB officer.

The basic permit requirement is also cross-referenced in 27 CFR part 27, which generally sets forth the regulatory provisions that apply to the importation of distilled spirits, wine, and beer from foreign countries under the IRC. Section 27.55 of the TTB regulations (27 CFR 27.55) restates the FAA Act basic permit requirement. Neither the regulations in part 1 nor the regulations in part 27 currently state the conditions under which an importer obtaining release of distilled spirits, wine, or malt beverages subject to tax must provide the permit, or evidence of having obtained the permit, to CBP during importation.

Each FAA Act basic permit that TTB issues has a number associated with it. TTB is proposing to amend the regulations at § 1.58 to require that, if filing TTB data electronically, the importer file the number of the FAA Act basic permit with CBP. Requiring the submission of the permit number would allow the importer to demonstrate compliance with the statutory requirement that it has obtained the required permit. Amending the regulations to account for the submission of the permit number also would make clearer to the importer what is required upon importation of TTB-regulated alcohol beverages and make more transparent and consistent the application of the permit requirement. Finally, the filing of the permit number with the CBP entry would allow TTB to more easily link imported alcohol beverages to their importers and specific importations to the records importers keep and the reports they submit to TTB. Revised § 1.58 also provides that, regardless of the method of filing, every importer must make the permit available upon request by the appropriate TTB officer or a customs officer. With regard to these regulatory sections, TTB also proposes to amend § 27.55 to cross-reference § 1.58 and to cross-reference 27 CFR 1.10 for the definitions of the terms "distilled spirits," "wine," and "malt beverage" that are particular to the FAA Act. The proposed amendments also alert the reader to the FAA Act requirements to obtain a COLA and any required foreign certificates. TTB also proposes to clarify in § 27.55 that FAA Act requirements do not apply to tourists importing distilled spirits, wine, or malt beverages into the United States for personal or other noncommercial use.[6] Finally, because there is currently no definition of "malt beverage" in part 1, TTB proposes to add the FAA Act definition to 27 CFR 1.10.

The FAA Act basic permit requirement is also reflected in 27 CFR part 26, which contains regulations applicable to distilled spirits, wine, and beer brought into the United States from Puerto Rico and the U.S. Virgin Islands. With respect to the U.S. Virgin Islands, § 26.202 of the TTB regulations (27 CFR 26.202), currently restates the FAA Act basic permit requirement and provides that those to whom the FAA Act basic permit requirement applies must "file with the district director of customs at the port of entry a certified or photostatic copy" of the permit.

TTB does not believe it is necessary to continue requiring the submission of the paper form or a copy of the paper form as set forth in § 26.202. TTB believes that requiring the TTB-issued permit number of the importer to be filed with CBP at the time of entry for electronic filers will be sufficient to enable CBP to make the initial determination that importers are compliant with the permit requirement and to enable TTB to link the imported consignment with a specific importer for purposes of verifying compliance. For importers that are not filing electronically, TTB believes that the FAA Act basic permit requirement can be enforced by requiring that a copy of the permit be made available upon request. As a result, TTB is proposing to amend the regulations at § 26.202 to state that the FAA Act basic permit number must be filed with the customs entry or made available upon request, as required under § 1.58. This change will reduce the burden on persons bringing alcohol beverages into the United States from the U.S. Virgin Islands who will no longer be required to submit a copy of the permit. TTB is also removing references to "the district director of customs" where they appear in the sections of part 26 pertaining to the U.S. Virgin Islands, replacing them with more general references to customs or CBP.

TTB is also proposing to amend § 26.202 to alert the reader to the definitions of the terms "distilled spirits," "wine," and "malt beverage" that are particular to the FAA Act as well as to the FAA Act requirements to obtain a COLA and any required foreign certificates. TTB is also proposing to revise § 26.202 to clarify that no FAA Act requirement applies to tourists bringing distilled spirits, wine, or malt beverages into the United States for personal or other noncommercial use.

B. Filing of a COLA Identification Number or COLA Documents by Importers of Alcohol Beverages

As noted above, section 105(e) of the FAA Act (27 U.S.C. 205(e)) sets forth labeling requirements and, with respect to imports, provides that no person shall remove from customs custody, in bottles, for sale or any other commercial purpose, distilled spirits, wine, or malt beverages, without having obtained and being in possession of a COLA covering the distilled spirits, wine, or malt beverages and issued by the Secretary of the Treasury.

To implement this requirement, §§ 4.40, 5.51, and 7.31 of the TTB regulations (27 CFR 4.40, 5.51, and 7.31) currently state that no bottled wine, distilled spirits, or malt beverages, respectively, shall be released from customs custody for consumption unless an approved COLA covering the label of the product has been deposited with the appropriate customs officer at the port of entry. With an approved COLA, the brand or lot of wine, distilled spirits, or malt beverages bearing labels identical to those appearing on the COLA may be released from customs custody.

TTB believes it will not be necessary to require the importer to deposit a paper copy of the approved COLA upon importation when filing TTB data electronically. As is the case with the FAA Act basic permit, each approved COLA has a number associated with it. Images of approved COLAs can be accessed by entering the COLA identification number into TTB's online database, the Public COLA Registry.[7] Accordingly, TTB proposes to amend §§ 4.40, 5.51, and 7.31 to require that, upon importation, the importer either file with the customs entry the TTB-assigned identification number of the COLA, when filing electronically, or provide a copy of the COLA to CBP. The proposed regulations also provide that the bottles or containers must bear labels identical to the labels appearing on the face of the COLA, or labels with changes authorized by the COLA form.

In the proposed regulatory text, TTB has set forth the provisions described here in one paragraph, paragraph (a), which will replace the provisions currently set forth in paragraphs (a) and (b) of §§ 4.40, 5.51, and 7.31. Proposed §§ 4.40, 5.51, and 7.31 also state that importers must apply for and obtain a COLA before removing the bottled wine, distilled spirits, or malt beverages from customs custody, and cross-reference the limited exceptions to the COLA requirement that appear in part 27.

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[6] In this document, as in the longstanding regulations in part 26, the term "tourists" is used to refer to any individuals who are importing or bringing into the United States distilled spirits, wine, or malt beverages for personal or other noncommercial use and who are not subject to the FAA Act because they are not engaged in the business of importing distilled spirits, wine, or malt beverages and they are not removing such products from customs custody for sale or any other commercial purpose.

[7] For the Public COLA Registry, see *https://www.ttbonline.gov/colasonline/publicSearchColasBasic.do.*

COLA requirements applicable to alcohol beverages brought into the United States from U.S. Virgin Islands are set forth in § 26.202, along with the FAA Act basic permit requirement discussed above. Specifically, § 26.202 states that every person and any agency of a State or political subdivision thereof or any officer or employee of such agency who brings liquors[8] into the United States from the U.S. Virgin Islands for nonindustrial use must file the COLA with "the district director of customs" at the port of entry. TTB is proposing to modify this requirement by adding the option to provide the TTB-assigned identification number of the COLA with the electronic filing of the CBP entry. Further, with regard to the format of the regulatory text, § 26.202 is currently organized as a single paragraph, with the FAA Act basic permit and COLA requirements both described in one sentence. TTB proposes to set forth the FAA Act basic permit and COLA requirements in separate paragraphs, provide a paragraph alerting the reader to the scope of the FAA Act, provide a paragraph to address foreign certificates for certain wines and distilled spirits as described below, and update the text to improve readability.

Additional regulations in parts 26 and 27 currently address distinctive liquor bottles. Persons importing liquor bottles of distinctive shape or design into the United States or bringing such bottles into the United States from Puerto Rico or the U.S. Virgin Islands, must obtain approval of the distinctive liquor bottle from TTB by filing an application for label approval that includes a photograph of the distinctive liquor bottle, and furnishing a copy of the COLA along with the photograph of the distinctive liquor bottle "to Customs officials at each affected port of entry where the merchandise is examined."[9] See 27 CFR 26.314 and 27.204. TTB has determined that the electronic filing of the TTB-assigned identification number for the approved COLA through ACE or, when filing on paper, the provision of a copy of the approved COLA to CBP at the time of entry without the photograph is sufficient to regulate the importation of distinctive liquor bottles. Accordingly, TTB proposes to amend §§ 26.314 and 27.204 to remove the requirement in these sections that the COLA and a photograph of the bottle be provided to CBP.

C. Removal of Requirement for Gin Statements of Process

In Part 5, Subpart F—Requirements for Withdrawal From Customs Custody of Bottled Imported Distilled Spirits, paragraph (d) of § 5.51 currently requires that TTB Form 5100.31 covering labels for imported gin bearing the word "distilled" as a part of the designation be accompanied by a statement prepared by the manufacturer setting forth a step-by-step description of the manufacturing process.

This is the only regulation in part 5 that requires a formula for a specific type of imported distilled spirits product. However, under current TTB regulations at 27 CFR 5.33(g), a bottler or importer must, upon request, submit to TTB a complete and accurate statement of the contents of the bottles to which labels are to be or have been affixed. Under this authority, TTB may continue to require industry members to submit a formula, including a description of the manufacturing process, for any alcohol beverage to TTB for evaluation prior to the issuance of a COLA. TTB Industry Circular 2007–4, Pre-COLA Product Evaluation, currently outlines these formula requirements.

In the proposed regulations, the requirement that TTB Form 5100.31 be accompanied by a statement of process as set forth in paragraph (d) of § 5.51 is removed, and the section is reorganized accordingly. TTB will evaluate whether formulas for these products should continue to be submitted, prior to the issuance of a COLA, through its authority under § 5.33(g).

D. Possession and Retention of Certificates of Age, Origin, or Identity Issued by Foreign Governments for Importations of Certain Wine and Distilled Spirits

Along with the COLA requirements discussed earlier, parts 4 and 5 of the current TTB regulations also contain certain requirements under which importers must possess certifications by duly authorized officials of foreign governments that the wines or distilled spirits being imported have been produced using specific practices or in conformity with certain laws of the country of origin in order for the labels of those beverages to bear certain designations. Specifically:

- Paragraph (a) of § 4.45 (27 CFR 4.45(a)) addresses certificates of origin and identity for wine and requires that the invoice for certain imported wine be accompanied by a certificate issued by a duly authorized official of the appropriate foreign government certifying as to the identity of the wine and that the wine has been produced in compliance with the laws of the respective foreign government regulating the production of such wine for home consumption. Without a required certificate, the wine will not be released from customs custody.
- Paragraphs (a) through (e) of § 5.52 (27 CFR 5.52(a)–(e)) set forth similarly worded certificate of origin requirements for Scotch, Irish, and Canadian whiskies; brandy, Cognac, and rum; Tequila; other whiskies; and other distilled spirits, respectively. The required certificates must accompany the invoice or be filed with the application for release (in the case of Tequila), or the spirits shall not be released from customs custody. Generally, the certificates must indicate that the spirit has been produced in compliance with the laws of the country of origin regulating the manufacture of the specific distilled spirits for home consumption. In some cases, the certificates must also address production practices or age statements.
- Section 5.56 (27 CFR 5.56) provides that distilled spirits imported in bulk for bottling in the United States may not be removed from the plant where bottled unless the bottler possesses certificates of age and certificates of origin required under § 5.52 for the same spirits if imported in bottles.

The common element among these requirements is that the certificate must generally accompany the wines or distilled spirits (or accompany the invoice applicable to such wines or distilled spirits), except in the case of bulk importations, where the U.S. bottler must possess the certificate. TTB believes that, rather than require certificates of age, origin, or identity for wine or distilled spirits imported in bottles to be filed with CBP, the purposes of the requirement can be met by requiring the importer to have the certificate in its possession, to be made available upon request. The importer may be required to attest to the possession of the certificate at importation. TTB now has timely access to importation information through ACE and has the specific expertise to determine whether a certificate of age, origin, or identity is required for a certain product and whether a certificate is valid. Under the proposal, TTB could, through post-release review of the importation information, determine whether the appropriate certificate of age, origin, or identity is in the possession of the importer. This approach supports compliance in a way that facilitates legitimate trade, expedites the release of compliant wines and distilled spirits from customs custody, and allows enforcement resources to be focused on identifying noncompliance.

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[8] The term "liquors" is used throughout part 26, and is defined in § 26.11 as "industrial spirits, distilled spirits, liqueurs, cordials and similar compounds, wines, and beer or any alcoholic preparation fit for beverage use."

[9] The term "liquor bottle" is defined at 27 CFR 26.11 and 27.11 as a "bottle made of glass or earthenware, or of other suitable material approved by the Food and Drug Administration, which has been designed or is intended for use as a container for distilled spirits for sale for beverage purposes and which has been determined by the appropriate TTB officer to adequately protect the revenue."

Accordingly, TTB is proposing to amend §§ 4.45(a), and 5.52(a) through (e), to state that products for which a certification of age, origin, or identity is required are not eligible for release from customs custody and no person may remove such products from customs custody, unless the importer possesses the relevant certificate (and accompanying invoice, if required). The proposed amendments are for clarity only and do not change the intent of those regulations, that is, that products requiring a certificate of age, origin, or identity may not enter the United States for consumption unless covered by such a certificate.

The revisions to § 4.45(a) will also clarify that the certificate must only be in the possession of the importer at the time of removal from customs custody in the case of wine imported in containers.

TTB is proposing to add a new § 4.53 (new 27 CFR 4.53) to subpart F, Requirements for Approval of Labels of Wine Domestically Bottled or Packed, to provide that wine imported in bulk and bottled in the United States may not be removed from the premises where bottled unless the bottler possesses a certificate if a certificate is required under § 4.45 for like wine imported in containers. TTB is also proposing editorial changes to current § 5.56, pertaining to certificates of age and origin for distilled spirits imported in bulk for bottling in the United States.

In order to ensure that the required certificates are available for TTB inspection, TTB is proposing in this document to add provisions in the regulations at § 5.56, in a new paragraph (c) in § 4.45, in new § 4.53, and new paragraph (f) in § 5.52 to address the retention of the certificates addressed in those sections. Under new paragraphs (c) in § 4.45 and (f) in § 5.52, for the five years following importation, upon request by the appropriate TTB officer or a customs officer, the importer must provide a copy of any certificate of age, origin, or identity relied upon for removal of imported wine or distilled spirits, as applicable, from customs custody. Similarly, under new § 4.53 and the revision to § 5.56, for the five years following the removal of bottled wine or distilled spirits from the bonded wine cellar or distilled spirits plant where bottled, upon request of the appropriate TTB officer, the U.S. bottler must provide a copy of any certificate of age, origin, or identity required under §§ 4.45 or 5.52 for like wine or distilled spirits imported in containers.

TTB believes that five years is a reasonable period of time for record retention because there is a five-year statute of limitations for criminal violations of the FAA Act. TTB notes that the proposed rule does not require industry members to retain paper copies of each certificate; they may retain electronic copies of certificates.

While the FAA Act does not contain any specific recordkeeping requirements in this regard, the labeling regulations have for decades required industry members to produce such certificates upon demand. Furthermore, such records are necessary to enforce the requirements of the FAA Act. See, *e.g., National Confectioners Ass'n* v. *Califano*, 569 F.2d 690, 693–94 (D.C. Cir. 1978), which upheld the U.S. Food and Drug Administration's authority to require records in the absence of a specific statutory requirement, where records were necessary to help in the efficient enforcement of the Federal Food, Drug and Cosmetic Act. Further, as noted above, TTB has authority under section 2(d) of the FAA Act, Pub. L. 74–401 (1935) "to prescribe such rules and regulations as may be necessary to carry out [its] powers and duties" under the FAA Act.

TTB is also proposing certain clarifications to §§ 4.45 and 5.52. First, references to "a duly authorized official" of a foreign government would be changed to "an official duly authorized by" the appropriate foreign government. Many foreign governments authorize non-governmental or quasi-governmental bodies (like the Consejo Regulador del Tequila in Mexico or the Comité Interprofessionnel du Vin de Champagne in France) to issue such certificates for wines or distilled spirits, and TTB's practice has been to accept certificates issued by such organizations. Second, certain certification requirements in §§ 4.45(a) and 5.52(e) would be limited to instances when the country of origin of imported wine or distilled spirits requires the issuance of a certificate of age, origin, or identity, instead of when the country of origin "authorizes" the issuance of such certificates. This change conforms the regulations to TTB's practice.

E. Certification of Imported Vintage Wine

Section 4.27 (27 CFR 4.27) requires that wine labeled with the year of harvest of the grapes, or vintage date, meet certain requirements. Paragraph (c) of § 4.27 currently states that imported wine may bear a vintage date if, among other conditions, the invoice for such wine is accompanied by a certificate issued by a duly authorized official of the country of origin certifying that the wine meets various criteria or, if imported in bulk for bottling in the United States, the American bottler possesses such a certificate.

TTB believes that it is no longer necessary to require this certificate. TTB's regulations do not impose a certification requirement on imported wine labeled with an appellation of origin, and TTB believes that a consistent approach is appropriate for vintage wine.

Accordingly, TTB is proposing to amend paragraph (c) of § 4.27 to remove the requirement that the importer or bottler of imported vintage wine possess a certificate of vintage wine from the appropriate foreign government. Instead, the proposed regulations require that, upon request by the appropriate TTB officer or a customs officer, the importer of the wine imported in bottles, or the domestic bottler of wine imported in bulk and bottled in the United States, must be able to demonstrate that the wine is entitled to be labeled with the vintage date. The remaining requirements would be that the wine be of the vintage shown, that the laws of the country regulate the appearance of vintage dates on the labels of wine produced for consumption within the country of origin, that the wine has been produced in conformity with those laws, and that the wine would be entitled to bear the vintage date if it had been sold within the country of origin.

F. Possession of Certificates for Imported Natural Wine

TTB proposes to add a definition of natural wine to § 26.11 and § 27.11, applicable to all of parts 26 and 27. The proposed definition of natural wine at § 26.11 and § 27.11 provides that natural wine is made in accordance with a production practice or procedure authorized for natural wine by 27 CFR part 24, or, in the case of natural wine produced and imported subject to an international agreement or treaty, those practices and procedures acceptable to the United States under that agreement or treaty. This is consistent with the requirements of 26 U.S.C. 5382(a)(3)(A).

TTB also proposes amending 27 CFR 27.140, which generally requires importers of natural wine to obtain a certification regarding the production of the wine from the country of origin. (This requirement does not apply to natural wine brought into the United States from the U.S. Virgin Islands.)

TTB proposes to amend § 27.140 to remove the definition of importer from paragraph (a) of that section. The existing regulatory definition applies only to importers that are required to have a basic permit under the FAA Act. Although the certificate is also required under § 4.45(b) for FAA Act purposes, the IRC requirement applies to all importers of natural wine, including wine not subject to the FAA Act. TTB proposes to amend paragraph (b)(1) of § 27.140 to state that the importer of bottled wine must be in possession of the certificate at the time of filing the entry with CBP, and the bottler of bulk wine must be in possession of the certificate at the time the wine is withdrawn from the premises where bottled. Under proposed 27.140(b)(1), natural wine certificates must be retained for three years following release from customs custody, and must be made available to the appropriate TTB officer or a customs officer upon request.

TTB also proposes a technical revision to the definition of proper cellar treatment at § 27.140(a), and proposes to remove the definition of natural wine in § 27.140 from that section. The proposed definition is intended to describe which wine is eligible to be imported or brought into the United States in bulk without payment of tax, as described in more detail below.

For natural wine that is subject to the FAA Act, current § 4.45(b) provides that the importer of bottled wine must be in possession of the certificate at the time of the release of wine from customs custody. Proposed § 4.45(c) provides that the importer must retain the certificate for five years following the date of removal from customs custody, and proposed § 4.53 provides that the bottler of bulk wine must be in possession of the certificate at the time the wine is removed from the premises where bottled and retain the certificate for five years following such removal.

G. Removal of Requirement To Present to CBP Certificates of Nonstandard Fill for Wine and Distilled Spirits

The TTB regulations in 27 CFR parts 4 and 5 currently prescribe certain standards of fill for wine and distilled spirits, respectively. (See 27 CFR 4.70–4.72 and 5.45–5.47a.) Over the years, a number of changes were made to these standards, but the most significant change was the adoption of metric standards of fill for wine containers in 1974 (in T.D. ATF–12, 39 FR 45216) and for distilled spirits containers in 1980 (in T.D. ATF–25, 41 FR 10217 and 11022). A later amendment to the metric standards for distilled spirits containers included a phase-out of the 500-milliliter container size for distilled spirits (in T.D. ATF–228, 51 FR 16167).

Wine and distilled spirits that were bottled or packed before these standards became mandatory are "grandfathered" and may continue to be marketed in the United States. Imported wine and distilled spirits must either have (1) entered into customs custody before the most recent standards became mandatory (January 1, 1979, for wine and January 1, 1980, for distilled spirits or July 1, 1989, in the case of distilled spirits in 500-milliliter containers) and remained in their containers, or (2) been bottled or packed before the most recent standards became mandatory and a statement signed by a duly authorized official of the appropriate foreign country attests to that fact.

Within part 4, subpart E, Requirements for Withdrawal of Wine From Customs Custody, § 4.46 (27 CFR 4.46) requires that imported wine in containers not conforming to an authorized standard of fill (and not entered into customs custody before January 1, 1979) be accompanied by a certificate of nonstandard fill in order to be withdrawn from customs custody. Within part 5, subpart F, Requirements for Withdrawal From Customs Custody of Bottled Imported Distilled Spirits, § 5.53 (27 CFR 5.53) similarly requires that imported distilled spirits in containers not conforming to an authorized standard of fill (and not entered into customs custody before January 1, 1980, or July 1, 1989, in the case of distilled spirits in 500-milliliter containers) be accompanied by the certificate of nonstandard fill as a requirement for withdrawal from customs custody.

While importations of wine and distilled spirits that were bottled or packed before the most recent standards became mandatory are rare, TTB does occasionally receive COLA applications stating nonstandard fill for wines and distilled spirits. Therefore, TTB believes that it is appropriate to retain the exceptions for these products in the regulations. However, because the certification of nonstandard fill is provided as part of the COLA application, TTB believes it is not necessary to require the certificate upon importation. Accordingly, TTB proposes to remove §§ 4.46 and 5.53 from the regulations, and to insert the exceptions for the "grandfathered" wines and distilled spirits—along with the requirement for the certificate of nonstandard fill for wines not entered into customs custody before January 1, 1979 and distilled spirits not entered into customs custody before January 1, 1980 or July 1, 1989 in the case of distilled spirits in 500-milliliter containers—into the general standards of fill regulations in §§ 4.70 and 5.45. As proposed, the required foreign certificate is a document that must be made available to TTB upon request. TTB also proposes to remove the cross reference to § 5.53 currently contained in § 5.47a (27 CFR 5.47a).

Finally, TTB is clarifying that the certificates are to be issued by "an official duly authorized by" the appropriate foreign government, to provide for non-governmental or quasi-governmental bodies that may be authorized by a foreign government to issue such certificates.

These proposals concerning standards of fill are only intended to make changes to allow for the electronic filing of information. Substantive changes to standards of fill requirements are not addressed in this document.

H. Removal of Requirements Concerning Liquor Bottles and Filing Certain Applications in Triplicate

Regulations in part 26 subpart P and part 27 subpart N concern requirements for liquor bottles. Sections 26.316 and 27.206 (27 CFR 26.316 and 27.206) currently provide that a customs officer will deny entry to any liquor bottle containing distilled spirits upon advice of the appropriate TTB officer who deems the bottle to be deceptive. Sections 26.318 and 27.208 (27 CFR 26.318 and 27.208) state that filled liquor bottles not conforming to those regulations will be denied entry into the United States, but provide that TTB may authorize such liquor bottles to be brought into the United States upon a letterhead application filed with TTB in triplicate. Similarly, sections 26.319 and 27.209 provide that TTB may authorize an importer to receive used liquor bottles pursuant to regulations in 27 CFR part 31 upon a letterhead application filed with TTB in triplicate. TTB proposes to amend §§ 26.316 and 27.206 to replace the text that states that the customs officer will deny entry of disapproved liquor bottles with text stating that disapproved bottles may not be brought into the United States. These amendments reflect the current environment where CBP may make decisions to inspect shipments on a case-by-case basis. Additionally, as amended, § 26.316 specifically states its provisions apply to bottles both from Puerto Rico, which is within the customs territory of the United States, and from the U.S. Virgin Islands, which is not. TTB also proposes to amend §§ 26.318, 26.319, 27.208, and 27.209 to remove the requirement that the applications be made in triplicate. TTB also proposes to update a cross-reference made in §§ 26.319 and 27.209 from § 31.263 (27 CFR 31.263) to § 31.203 (27 CFR 31.203), and to make §§ 26.318 and 27.208 more readable.

In addition, TTB is proposing to remove requirements set forth in 27 CFR 26.331 and 27.221 that applications to TTB for authorization to use alternate methods or procedures in lieu of methods or procedures prescribed by those parts be submitted in triplicate.

I. Filing of Data With Respect to Distilled Spirits, Wine, and Beer Imported or Brought Into the United States From the U.S. Virgin Islands Subject to Tax

As noted above, the Federal excise tax due on the importation of distilled spirits, wine, and beer is collected by CBP, along with any applicable duties. See 27 CFR 27.48. Similarly, liquors coming into the United States from the U.S. Virgin Islands are generally subject to a tax equal to the internal revenue tax imposed upon the production in the United States of like liquors. See 27 CFR 26.200. Such taxes are collected by CBP, along with any applicable duties.

To help ensure appropriate tax payment, TTB is proposing in this rulemaking to require that importers file and/or retain certain information regarding distilled spirits, wine, and beer imported into the United States or brought into the United States from the U.S. Virgin Islands subject to tax. Specifically, TTB is proposing to amend §§ 27.48 and 26.200 to require from electronic filers of TTB data information about the importer (name, FAA Act basic permit number, address, and employer identification number (EIN)) and the ultimate consignee (name and address) as well as information identifying the distilled spirits, wine, or beer for IRC or FAA Act purposes and the quantity of each product. Proposed amendments to §§ 27.48 and 26.200 also refer to the COLA requirement that may apply under § 4.40, 5.51, or 7.31. For importers filing TTB data electronically, this information would be required to be filed with CBP at the time of filing the customs entry or entry summary, as appropriate, along with any other information that is required by CBP for purposes of determining and collecting the Federal excise tax and administering the provisions of the IRC and FAA Act. The proposed text also includes a clarification that, if any of the information required by TTB is also filed by the importer with CBP upon entry or entry summary, as appropriate, for purposes of meeting CBP requirements, the submission of information for CBP purposes will also meet the TTB requirements. That is, generally, the importer need not enter the same information twice. TTB understands that quantities of distilled spirits are currently submitted to CBP in proof liters and not in proof gallons, and so proposes in §§ 27.48, 26.200, and elsewhere to accept the filing of quantities of distilled spirits in proof liters, and to add a definition of "proof liter" to §§ 27.11 and 26.11.

Regardless of the method of filing, the importer must retain the information required, any information provided to CBP to meet CBP requirements, and any supporting documentation, and make such records available for inspection by the appropriate TTB officer or a customs officer.

TTB is also proposing a technical correction to the definition of "importer" at § 26.11. As revised, an importer is defined as any person who brings distilled spirits, wines, or beer into the United States from the Virgin Islands. Other proposed technical corrections update statutory references at §§ 26.263 and 26.264, pertaining to the determination of tax on beer and wine, respectively.

J. Entry of Distilled Spirits To Which an Effective Tax Rate or Standard Effective Tax Rate Applies

Section 5010 of the IRC (26 U.S.C. 5010) provides a credit against the tax imposed on distilled spirits for any eligible wine or eligible nonbeverage flavors used in the manufacture of the distilled spirits. This credit results in an effective tax rate, which is a reduced rate of tax. For imported distilled spirits, pursuant to section 5010(b)(2), the wine content and flavors content of the distilled spirits are established by chemical analysis, certification, or other methods set forth in regulations prescribed by the Secretary. Sections 27.76 and 27.77 of the TTB regulations (27 CFR 27.76 and 27.77) set forth the methods by which the effective tax rates are determined and applied to imported distilled spirits. Section 26.204a (27 CFR 26.204a) sets forth the method by which the effective tax rates are determined and applied to distilled spirits brought into the United States from the U.S. Virgin Islands.

An importer of distilled spirits may obtain and apply an effective tax rate in one of two ways. Under one approach, provided in § 27.76, the importer obtains from TTB a "statement of eligibility" for each wine and flavor used in the product, and then prepares a "certificate of effective tax rate computation" for each shipment. The importer must file this certificate with CBP at the port of entry at the time it files the relevant entry summary. A similar approach is also available to persons bringing distilled spirits into the United States from the U.S. Virgin Islands, except that, instead of preparing a specific certificate of effective tax rate computation, the importer must submit the information upon which the effective tax rate is based, along with other information about the shipment, in a certificate specified in section 26.205 (27 CFR 26.205). Alternatively, the importer may have a "standard effective tax rate" established by TTB pursuant to § 27.77. A standard effective tax rate may be used continually for each importation of a product because it is based on the lowest quantities and lowest alcohol content of eligible wine and flavors used in making the particular product. Under current regulations, a copy of the standard effective tax rate approval must be filed with CBP at the port of entry at the time of entry summary.

TTB believes it is no longer necessary for the importer to submit the certificate of effective tax rate computation or the standard effective tax rate approval document to CBP during the entry process, provided that the importer possesses one of these documents and makes it available upon request. TTB believes that the data already provided by the importer to CBP during the entry process regarding the tax applicable to the imported distilled spirits is sufficient for enforcement of the effective tax rate provisions when combined with the importer's FAA Act basic permit number and the COLA identification number upon importation (the filing of which are proposed in this document). Therefore, TTB proposes to amend §§ 27.76 and 27.77 to remove the requirement that the importer submit the certificate of effective tax rate or the standard effective tax rate approval at entry, although the importer must have the certificate in its possession at the time of filing the entry summary and a copy must be provided to an appropriate TTB officer or a customs officer upon request. TTB also proposes to specify, in a new paragraph (e) in both § 27.76 and § 27.77, that the importer must retain a copy of the certificate or approval in accordance with the record retention requirements in 27 CFR part 27 and provide it upon request. For persons bringing distilled spirits into the United States from the U.S. Virgin Islands, the information will continue to be entered into the certificate specified in § 26.205. As with imported distilled spirits, TTB also proposes to specify, in a new paragraph (c) in § 26.205, that the person bringing the distilled spirits into the United States must retain a copy of the certificate and records to substantiate information on the certificate, such as information regarding an effective tax rate, in accordance with the record retention requirements in 27 CFR part 26 and provide them upon request.

When distilled spirits eligible for an effective tax rate are removed from customs custody in bulk without payment of tax for transfer to a domestic distilled spirits plant, current and proposed §§ 27.76 and 27.77 provide that the importer must furnish a copy of the certificate or approval to the proprietor of the distilled spirits plant to which the distilled spirits are transferred. Similarly, proposed § 26.205 requires that the certificate showing information regarding liquors brought into the United States from the U.S. Virgin Islands, which would include information related to the effective tax rate if applicable, be provided to the receiving distilled spirits plant.

K. Distilled Spirits, Wine, and Beer Imported or Brought Into the United States Without Payment of Tax in Bulk Containers

As noted above, under 26 U.S.C. 5232, distilled spirits imported or brought into the United States in bulk containers may, under regulations prescribed by the Secretary of the Treasury, be withdrawn from customs custody and transferred in such bulk containers or by pipeline to the bonded premises of a distilled spirits plant without payment of the internal revenue tax. The person operating the bonded premises of the distilled spirits plant receiving the spirits becomes liable for the tax upon release of the spirits from customs custody. Section 27.11 (27 CFR 27.11) defines the term "bulk containers" as any container having a capacity of more than one gallon. Subpart L of part 27 and subpart Oa of part 26 currently contain the provisions related to the transfer of distilled spirits from customs custody to the bonded premises of a distilled spirits plant.

Prior to 1998, the IRC contained no provisions allowing the importation of wine without payment of the excise tax imposed by section 5041 or the importation of beer without payment of the excise tax imposed by section 5051. Wine and beer could both be imported in bulk or in any type of container, but no provision existed in the IRC to defer payment of the excise tax on importation, or to permit the movement of imported wine or beer, without payment of tax, onto bonded wine cellar premises or brewery premises, as applicable, where it would be covered by the TTB bond.

Effective April 1, 1998, sections 1421 and 1422 of the Taxpayer Relief Act of 1997, Public Law 105–34, amended the IRC to authorize the transfer without payment of tax of imported wine in bulk containers from customs custody to a bonded wine cellar and the transfer of beer in bulk containers from customs custody to a brewery premises. See 26 U.S.C. 5364 and 5418, respectively. A subsequent provision enacted by section 6014 of the Internal Revenue Restructuring and Reform Act of 1998, Public Law 105–206, restricted bulk imported wine to "Natural wine (as defined in section 5381)."

Under 26 U.S.C. 5364 and 5418, as amended, the physical transfer of wine or beer is accompanied by a transfer of the excise tax liability existing for such wine from the customs bond of the importer to the wine or beer bond of the receiving bonded wine cellar or brewery, as the case may be. Excise tax payment on such imported wine or beer is deferred until the time when the wine or beer is removed from the bonded wine cellar or brewery, as applicable, for consumption or sale. At that time, the taxation provisions of section 5041 of the IRC apply to the wine and those of section 5051 of the IRC apply to beer. Accordingly, the proprietor of the bonded wine cellar pays the tax by return under the IRC and the TTB provisions applicable to domestic wine removed subject to tax, while the brewer pays the tax by return under the IRC and the TTB provisions applicable to domestic beer removed subject to tax.

In March 1998, ATF issued two ATF Procedures regarding the administration of sections 1421 and 1422 of Public Law 105–34. The procedures are ATF Procedure 98–2, concerning importation and transfer of beer in bulk containers to a brewery premises, and ATF Procedure 98–3, concerning importation and transfer of wine in bulk containers to a bonded wine cellar. These two procedures provide guidance and set forth requirements applicable to importers of wine and beer in bulk containers and proprietors of the domestic facilities receiving the bulk wine and beer, which have not yet been incorporated into the TTB regulations. With respect to importers, both procedures require that, on release of the bulk product from customs custody, the importer prepare a transfer record documenting the transfer of the product. With respect to wine, ATF Procedure 98–3 provides that the transfer record will identify the importer and show the number of containers transferred and quantity of wine within each container, the origin of the wine, the customs entry number, the amount of duty paid, the kind of wine, and information identifying the foreign producer. With respect to beer, ATF Procedure 98–2 provides that the transfer record will identify the importer and will show the number of containers transferred and quantity of beer within each container, the foreign origin of the beer, the customs entry number, the amount of duty paid, the kind of beer, and information identifying the foreign brewer. Neither procedure requires the information to be submitted to CBP as part of the customs entry or entry summary.

ATF Procedures 98–2 and 98–3 also provide guidance to domestic manufacturers who receive shipments of bulk wine or beer. In this rulemaking, TTB is not addressing such guidance, because the primary intent of this rulemaking is to address and prepare for the submission by importers of electronic importation information, and procedural rules relating to the operations of domestic recipients of the shipments are beyond the scope of this rulemaking. With regard to importers, TTB is proposing to amend the provisions of 27 CFR part 27 to expand the scope of subpart L, and 27 CFR part 26 to expand the scope of subpart Oa, which currently only address transfers of bulk distilled spirits from customs custody to the bonded premises of distilled spirits plants. Specifically, § 27.171 of part 27 currently sets forth general provisions regarding the importation of bulk distilled spirits, and § 26.300 sets forth general provisions regarding bringing bulk distilled spirits into the United States from the U.S. Virgin Islands. Under the proposed regulations, the current texts of each section will be designated as (a) and new paragraphs (b) and (c) will set forth the general provisions related to the importation of bulk beer and wine without payment of tax.

In subpart L of part 27, 27 CFR 27.172 currently requires a person importing distilled spirits and transferring them from customs custody to the bonded premises of a distilled spirits plant without payment of tax to prepare a transfer record for each conveyance and, if the spirits are in packages, a package gauge record that must be attached to the transfer record. The transfer record and the package gauge record must be prepared in triplicate, and, upon release of the spirits from customs custody, one copy must be given to CBP, one copy must be forwarded to the appropriate TTB officer, and the original must be forwarded to the consignee.

The specific requirements regarding the transfer record's contents are set forth in 27 CFR 27.138. Under § 27.138, the transfer record must be given a serial number by the preparer and must contain such information as the name and IRC registry number of the distilled spirits plant receiving the spirits from customs custody, the country of origin, the name of the foreign producer, the kind of spirits, the age and proof of the spirits, the proof gallons of the spirits, and the type and number of containers in the shipment. The specific requirements regarding the package gauge record's contents are set forth in 27 CFR 27.139. Under § 27.139, the package gauge record must contain information about each package, including the package identification or serial number; the kind of spirits; the gross weight, proof, and proof gallons of the spirits; the name of the warehouseman who received the spirits from customs custody; and the name of the importer. Similar provisions are set forth for persons bringing distilled spirits in bulk containers into the United States from the U.S. Virgin Islands for transfer to a distilled spirits plant at §§ 26.301, 26.273a, and 26.273b (27 CFR 26.301, 26.273a, and 26.273b).

TTB is proposing to amend §§ 27.172 and 26.301, which currently require the preparation of the transfer record and package gauge record for distilled spirits, to include the transfer record requirements for wine and beer. Both sections as amended would require that the transfer records be maintained by the person importing the products or bringing them in from the U.S. Virgin Islands; the transfer record documents would not be submitted to CBP. For importers filing TTB data electronically, certain information from each transfer record would be submitted to CBP with the filing of the entry or entry summary, as appropriate. Under the proposal, the information required would be the name and address of the ultimate consignee, the basic permit number and EIN (if applicable) of the importer, the IRC registry number of the ultimate consignee, information identifying each product for IRC and/or FAA Act purposes, and the quantity in the shipment.

TTB is not proposing to amend the regulations at 27 CFR 27.139 and 26.273b regarding the specific information that must be contained in the distilled spirits package gauge record. However, TTB is proposing to remove § 26.302 (27 CFR 26.302) and incorporate the package gauge requirements of that section into amended § 26.301. The requirements of § 26.302 that refer to preparing copies of documents in duplicate and filing such copies would be removed entirely.

TTB is proposing to amend §§ 27.138 and 26.273a, the transfer record, to add the specific information that is required to be captured in the transfer record regarding transfers of wine and beer in bulk from customs custody to the premises of the applicable TTB-bonded premises. The information specified includes the information now required by ATF Procedure 98–3, with respect to transfers of wine, and ATF Procedure 98–2, with respect to transfers of beer, and adds the following data elements applicable to both wine and beer: The date the records are prepared, the name and address of the bonded wine cellar or brewery receiving the wine from customs custody, and the IRC registry number of the bonded wine cellar or brewery receiving the wine or beer from customs custody. As noted above, under the proposed amendments to §§ 27.172 and 26.301, the transfer record would be maintained by the importer (or person bringing the spirits into the United States from the U.S. Virgin Islands), and from the transfer record only the name and address of the ultimate consignee, the IRC registry number, information identifying each product for IRC and/or FAA Act purposes, and the quantity in the shipment would be required to be submitted upon entry or entry summary, as appropriate. TTB is also proposing to add the customs entry number and amount of duty paid to the specific information that is required to be captured in the transfer record regarding transfers of distilled spirits in bulk from customs custody to the premises of the distilled spirits plant. TTB believes that this information is important to track shipments of distilled spirits transferred without payment of tax.

TTB is proposing to no longer require submission of the remaining data elements currently required as part of the transfer record or package gauge record, as TTB believes that they are either no longer necessary to be submitted or that they can be requested of an industry member as needed on a case-by-case basis, if not otherwise available through data the industry member submits to CBP for purposes of meeting CBP requirements.

The proposed amendments at §§ 27.172 and 26.301 clarify that if any of the information required by TTB is also filed by the importer with CBP upon entry or entry summary, as appropriate, for purposes of meeting CBP requirements, the submission of information for CBP purposes will also meet the TTB requirements. In other words, generally, when filing information electronically, the importer need not enter the same information twice. Regardless of the method of filing, the importer must retain records, including supporting records to substantiate the information it filed with CBP, in accordance with the record retention requirements of parts 27 and 26, and provide such records upon request. Proposed §§ 27.172 and 26.301 also provide that all importers, including importers that do not file TTB data electronically, must maintain the transfer record, specified information, and supporting documentation, and make those records available upon request of the appropriate TTB officer or a customs officer.

In addition, proposed §§ 27.172 and 26.301 state that the importer must also provide a copy of the transfer record to the recipient, if the recipient is not the importer. The proposed text would remove the current requirement in § 27.172 that the "original" transfer record be forwarded to the transferee, and help ensure that the domestic TTB-bonded premises receive the record, regardless of whether a shipment originates in a foreign country or the U.S. Virgin Islands. Current and proposed §§ 27.76 and 27.77 require that, when distilled spirits eligible for an effective tax rate are transferred without payment of tax, the importer must furnish a copy of the relevant approval or certificate to the domestic DSP proprietor. Proposed § 26.205 also requires that a certificate be forwarded to the domestic TTB-bonded premises in the case of distilled spirits, natural wine, and beer transferred without payment of tax.

TTB also proposes to amend the definition of "bulk container" in 27 CFR 27.11 and 26.11 to include references to bulk containers of wine (any container larger than 60 liters) and to bulk containers of beer (any container larger than 1 barrel of 31 gallons). The definition proposed for "bulk container" of wine mirrors the definition of that term in ATF Procedure 98–3 and in 27 CFR 24.11. (27 CFR part 24 contains the regulations applicable to operations of domestic wine premises.) The definition proposed for "bulk container" of beer mirrors the definition of that term set out in ATF Procedure

98–2. TTB is also proposing to add a definition of "natural wine" to §§ 27.11 and 26.11 to describe what wine may be imported or brought into the United States in bulk without payment of tax.

Finally, TTB proposes a number of clarifying changes to the regulations relating to imports in bulk. TTB proposes to add definitions of "Bonded wine cellar", "Brewery", and "IRC registry number" to §§ 26.11 and 27.11. In paragraph (c) of § 26.1, which sets out the scope of the part 26 regulations, TTB proposes to add a reference to bulk wine and bulk beer coming into the United States from the U.S. Virgin Islands. In § 26.273 (27 CFR 26.273), which refers to the reporting and recording requirements of proprietors of bonded premises, TTB proposes to add references to bonded wine cellars and breweries. In § 27.120 (27 CFR 27.120), TTB is updating the reference to "Regulation 3 (27 CFR part 3)" to "subpart E of part 1," to reflect the regulatory changes made in T.D. ATF–373 (61 FR 26096). TTB also proposes to update the title of § 27.175 to clarify that it applies only to the receipt of distilled spirits by proprietors of distilled spirits plants.

This regulation, if finalized, would supersede parallel provisions of ATF Procedures 98–2 and 98–3.

L. Filing of Permit Number and Information for Industrial Alcohol Shipments to the United States From the U.S. Virgin Islands

Section 5314(b)(1) of the IRC (26 U.S.C. 5314(b)(1)) authorizes, in certain circumstances, distilled spirits produced or manufactured in the U.S. Virgin Islands to be brought into the United States from the U.S. Virgin Islands free of tax. Those circumstances include: (1) When the alcohol has been "denatured" by the addition of materials that make the spirits unfit for beverage consumption; (2) when the alcohol is withdrawn by, and for the use of, the United States or any agency thereof, any State, any political subdivision of a State, or the District of Columbia, for nonbeverage purposes; and (3) when the alcohol is withdrawn by an eligible person for certain specified nonbeverage educational, medical, or research purposes.

Regulations pertaining to the use of denatured spirits are found in 27 CFR part 20 (Distribution and Use of Denatured Alcohol and Rum), and regulations pertaining to the use of undenatured tax-free spirits are in found in 27 CFR part 22 (Distribution and Use of Tax-Free Alcohol). Under regulations in parts 20 and 22, TTB authorizes the withdrawal and use of tax-free alcohol by issuing permits to eligible persons on TTB Form 5150.9 and to government entities on TTB Form 5150.33 (or previous editions on Form 1444).

The distilled spirits described above may be shipped tax-free to the United States from the U.S. Virgin Islands under the provisions of 27 CFR part 26. Section 26.292 (27 CFR 26.292) requires that the consignor or consignee file with CBP the permit issued to the consignee under part 20 or 22 as evidence that the consignee is authorized to enter the spirits free of tax. Sections 26.294 and 26.296 (27 CFR 26.294 and 26.296) require that each shipment be accompanied by a record of shipment, consisting of an invoice, bill of lading, or similar document that shows certain specified information about the shipment, such as the consignee's name and address and the total quantity of the shipment.

As with FAA Act basic permits, TTB assigns each of the permits referenced in § 26.292 a number so that TTB can track the permit and its use. TTB proposes to amend § 26.292 to require the consignor or consignee, if filing TTB data electronically, to provide the number associated with the consignee's permit to CBP upon entry of the tax-free distilled spirits instead of a copy of its permit. The permit number would be entered into ACE. The TTB permit number would allow TTB to verify that the consignee is authorized to enter industrial spirits or specially denatured spirits free of tax.

Revised 27 CFR 26.292 also provides that, regardless of the method of filing, the consignor or the consignee must make the permit available upon request by the appropriate TTB officer or a customs officer.

TTB also proposes to amend §§ 26.294 and 26.296 to remove the statement that paper documents must "accompany" shipments into the United States. As amended, §§ 26.294 and 26.296 require the consignor, if filing TTB data with CBP electronically, to file certain information from the record of shipment with CBP, along with the filing of the customs entry or entry summary, as appropriate, and maintain the rest of the information required in the record of shipment as a record. Records substantiating the information filed with CBP also must be kept. As proposed, §§ 26.294 and 26.296 also include the clarification, that if any of the information required by TTB to be provided to CBP is also required by CBP as part of the entry or entry summary, the information provided to meet CBP requirements is sufficient to also meet TTB requirements, and it need not be entered twice.

M. Filing of Permit Number and Data by Government Agencies Importing Distilled Spirits Free of Tax

Under section 5313 of the IRC, the United States Government or any of its agencies may withdraw imported distilled spirits for nonbeverage purposes free of tax from customs custody. As was mentioned above, TTB issues permits to government entities that wish to use tax-free distilled spirits. Section 27.183 (27 CFR 27.183) currently requires a government agency withdrawing distilled spirits free of tax from customs custody to provide a photocopy of its permit to "the district director of customs." For the same reasons as those discussed with regard to shipments of distilled spirits from the U.S. Virgin Islands, TTB proposes to amend § 27.183 to require a government agency, if filing TTB data with CBP electronically, to file the number associated with the TTB-issued permit with CBP when the entry is filed. The permit number would be entered into ACE. If the government agency is not filing TTB data electronically, it must make a copy of the permit available to the customs officer, upon request, at entry or any subsequent time. TTB is also removing numerous references to "the district director of customs" in part 27, replacing them with a more general reference to CBP or removing the reference entirely.

Section 27.184 (27 CFR 27.184) currently requires identifying numbers of containers and the quantity of tax-free spirits to be recorded on entry documents. TTB proposes to amend § 27.184 to remove references to entry documents and simply require that the total quantity be filed, along with the number of the TTB-issued permit. Finally, TTB also proposes to remove § 27.185 (27 CFR 27.185), Customs release, as it describes customs processes and inspection. As described earlier, TTB is generally proposing to remove most references to actions that CBP will take at entry, and replace them, where appropriate, with text that clarifies the requirements that apply to the importer at entry.

N. Certificate Covering Distilled Spirits, Wine, or Beer Brought Into the United States From the U.S. Virgin Islands

Section 26.205 (27 CFR 26.205) currently requires that every person bringing distilled spirits, wine, or beer under part 26 into the United States from the U.S. Virgin Islands, except tourists, obtain a certificate in the English language from the manufacturer. The required information in the certificate includes, among other things, the name and address of the consignee, the kind and brand name, and the quantity. Under paragraph (b) of § 26.205, the person bringing the distilled spirits, wine, or beer into the United States must file the certificate and a record of gauge with CBP at the port of entry with the entry summary. Section 26.260 (27 CFR 26.260) also requires the certificate to be filed with CBP.

TTB proposes in this rulemaking to amend § 26.205(b) to require that any person bringing liquors into the United States file information that appears on the certificate as required by proposed § 26.200. TTB proposes to add a new paragraph (c) to § 26.205, under which information associated with the certificate required under that section must be maintained as a record and made available upon request of the appropriate TTB officer or a customs officer. TTB proposes to amend § 26.260 to cross-reference the requirements set forth in §§ 26.200, 26.204, and 26.205. Finally, TTB proposes to add a new paragraph (d) to § 26.205, to require that for distilled spirits, natural wine, or beer withdrawn from customs custody without payment of tax, the importer must furnish a copy of the certificate described in § 26.205 to the proprietor of the receiving distilled spirits plant, bonded wine cellar, or brewery.

O. Clarification of Record Retention Requirements

Sections 26.276 and 27.137 (27 CFR 26.276 and 27.137) currently set forth certain recordkeeping requirements for all documents or copies of documents that support records required by parts 26 and 27, respectively. TTB proposes to amend each of these sections to provide that the length of time during which the records must be kept is measured from the time of withdrawal from customs custody. TTB also proposes to provide that the records must be made available upon request of the appropriate TTB officer or a customs officer, rather than made available during business hours as the texts of these sections currently state. This amendment would provide for alternative means of providing such records, such as by mail or email. TTB also proposes to clarify that supporting documents include data filed with CBP pursuant to CBP requirements.

P. Removal of Requirements for CBP to Gauge or Inspect

Certain TTB regulations currently state that customs officers shall inspect or gauge shipments of alcohol before release. Section 26.261 (27 CFR 26.261) states that CBP will regauge or inspect a consignment of liquors from the U.S. Virgin Islands to the United States to determine the tax due on the consignment. Section 26.297 (27 CFR 26.297) states that CBP shall inspect shipments of industrial spirits, specially denatured spirits, completely denatured alcohol, and products made with denatured spirits coming into the United States from the U.S. Virgin Islands. Section 26.303 (27 CFR 26.303) directs CBP to inspect shipments of bulk distilled spirits brought into the United States from the U.S. Virgin Islands and being transferred free of tax. Similarly, under § 27.173 (27 CFR 27.173) CBP shall inspect imports of bulk distilled spirits being transferred free of tax, and enter certain information on the transfer record. Finally, § 27.185 (27 CFR 27.185) requires CBP to inspect imported distilled spirits being released without payment of tax for use of the United States. These inspections are generally to detect losses in transit.

TTB proposes to remove these provisions. TTB believes that it is not now necessary to state that CBP will gauge or inspect all such consignments or shipments. TTB notes that persons receiving the alcohol are subject to regulation by TTB, and are required to take action to determine if losses have occurred. Accordingly, TTB proposes to remove §§ 26.261, 26.297, 26.303, 27.173, and 27.185.

Q. Filing of Data for Importation of Tobacco Products Subject to Tax and Processed Tobacco

The Federal excise tax due incident to the importation of tobacco products and cigarette papers and tubes is collected by CBP, along with any applicable duties. Tobacco products and cigarette papers and tubes coming into the United States from the U.S. Virgin Islands are generally subject to a tax equal to the internal revenue tax imposed upon the production in the United States of like products. Such taxes are collected by CBP, along with any applicable duties. Processed tobacco is not subject to tax but the importation of processed tobacco is subject to TTB regulation. Anyone engaged in the business of importing processed tobacco must obtain a permit, issued by TTB, prior to engaging in such business. See 26 U.S.C. 5712 and 5713.

Current 27 CFR 41.81 requires that, when tobacco products and cigarette papers and tubes are released from customs custody for consumption, importers must maintain certain information about those shipments and, if the customs form or the electronic transmission of information allows for the reporting of that information, file the information with CBP. The information required to be submitted or maintained under current § 41.81 includes, for example, identification of the imported product as it is classified under the IRC, the quantity imported, and the tax due. Although a permit is required to import tobacco products subject to tax, the regulations do not currently state the conditions under which an importer obtaining release of tobacco products subject to tax must provide the permit or proof of having obtained the permit to CBP during importation. TTB is proposing to update the information required to be filed and recorded.

Under the proposed regulations, the importer of tobacco products that files TTB data electronically must still file certain information identifying the imported product as it is classified under the IRC and the quantity imported, as well as information identifying the importer (by TTB permit number and employer identification number, or EIN) and the ultimate consignee. With regard to the TTB permit number and EIN, each permit to import tobacco products issued by TTB has a number associated with it. Amending the regulations to provide for the electronic submission of the permit number by importers that file TTB data electronically would make clearer to the importer what is required upon importation of TTB-regulated tobacco products and make the permit requirement more transparent and consistent. It would also allow TTB to link more easily specific importations to the records importers keep and the reports they submit to TTB. For importers of cigarette papers and tubes, the regulations set forth similar filing requirements, but do not require submission of a permit number because importers of cigarette papers and tubes are not required to obtain a TTB permit.

Proposed § 41.81 provides that any information required by that section and also filed with CBP as part of the entry or entry summary for purposes of meeting CBP requirements will also satisfy the TTB requirement. That is, generally, when filing information electronically, the importer need not enter the same information twice.

Whether or not the importer files TTB data electronically, revised 27 CFR 41.81 provides that the importer must retain the information required by § 41.81, any information provided to CBP for purposes of meeting CBP requirements, and any supporting documentation and make such records available upon request by the appropriate TTB officer or a customs officer.

In this document, TTB is also proposing to add a new section 27 CFR 41.265 to outline the process for importing processed tobacco. The requirements, as proposed, are similar to those for importers of tobacco products and cigarette papers and tubes. That is, if filing TTB data electronically, the importer must file with CBP certain information identifying the importer (by TTB permit number and employer identification number, or EIN), the ultimate consignee, and the import as "processed tobacco" and quantity. The proposed regulation clarifies that any information required by that section, that is filed with CBP as part of the entry or entry summary for purposes of meeting CBP requirements, will also satisfy the TTB requirement. Whether or not the importer files TTB data electronically, revised 27 CFR 41.265 provides that the importer must retain the information required by this section, any information submitted to CBP to meet CBP requirements, and any supporting documentation and make such records available upon request by the appropriate TTB officer or a customs officer.

TTB is also proposing to amend 27 CFR 41.204, which concerns records and reports. Currently, that section states that every tobacco products importer must keep records and submit reports, when required, of the physical receipt and disposition of tobacco products. The proposed regulations remove the reference to "physical" receipt and disposition. As proposed, the importer would be responsible for accounting for all tobacco products released from customs custody under the importer's TTB permit, including receipt and disposition. Proposed § 41.204 would also require recordkeeping by importers of cigarette papers and tubes.

R. Filing of Data for Importation of Tobacco Products Without Payment of Tax

As noted above, imported tobacco products and cigarette papers and tubes may be released from customs custody without payment of tax for delivery to a proprietor of an export warehouse, or to a manufacturer of tobacco products or cigarette papers and tubes if such articles are not put up in packages, in accordance with such regulations and under such bond as the Secretary shall prescribe. See 26 U.S.C. 5704(c). Imported tobacco products and cigarette papers and tubes previously exported and returned may be released from customs custody without payment of tax for delivery to the original manufacturer or an export warehouse proprietor authorized by such manufacturer to receive the products, in accordance with such regulations and under such bond as the Secretary shall prescribe. See 26 U.S.C. 5704(d).

Section 41.86 (27 CFR 41.86) addresses releases of tobacco products and cigarette papers and tubes from customs custody without payment of tax. Section 41.86 requires that a manufacturer or export warehouse proprietor wanting to obtain release of tobacco products or cigarette papers or tubes, under the provisions of 26 U.S.C. 5704(c) and (d), for transfer under bond to the manufacturer's or export warehouse proprietor's premises must prepare a notice of release on TTB F 5200.11 and file the form with the appropriate TTB officer, who certifies that the manufacturer or export warehouse proprietor meets the statutory requirements to obtain release. The importer makes this document available for the CBP officer, who verifies that the TTB F 5200.11 has been certified and provides a copy of the form to the importer. After release, the importer is currently required to send a copy of the form to TTB. Section 41.86(b) recognizes the use of electronic filing with CBP but does not specify how the TTB F 5200.11 is to be used to obtain the release electronically.

TTB proposes amending § 41.86 to provide the option for the data required on the TTB F 5200.11 to be submitted to CBP electronically, rather than on a paper form. Those not filing TTB data electronically with CBP must continue to use the paper form, be in possession of the TTB-certified form at the time the products are released from customs custody, and make the form available to a customs officer upon request. TTB notes that the proposed regulations would require, when applicable, two data elements (the TTB Importer Permit number and the recipient's EIN) that do not currently appear on the TTB F 5200.11. Amendments to the form would be made to mirror any final regulations. Section 41.86 would also be amended to specify the circumstances under which tobacco products and cigarette papers and tubes may be released from customs custody without payment of tax and to include a specific recordkeeping requirement, that regardless of the method of filing, the information required to be submitted to CBP must be retained along with any supporting documentation, and such records must be available for inspection upon request by the appropriate TTB officer or a customs officer.

S. Entry for Warehousing of Distilled Spirits, Wines, Beer, Tobacco Products, and Cigarette Papers and Tubes

Under the IRC at 26 U.S.C. 5061(d)(2), for distilled spirits, wine, and beer entered for warehousing (such as those commodities imported and transferred directly to a customs bonded warehouse or foreign trade zone and subsequently transferred between such warehouses), the last day for payment of the tax shall not be later than the 14th day after the last day of the semimonthly period during which the products are removed from the first such warehouse, even if the products are removed from that customs bonded warehouse or foreign trade zone for transfer to another customs bonded warehouse or foreign trade zone. There is an exception to this rule for products that are shown to the satisfaction of the Secretary to be destined for export. The IRC at 26 U.S.C. 5703(b)(2) mirrors these provisions for tobacco products and cigarette papers and tubes. Neither of these statutory requirements has yet been incorporated into the TTB regulations in part 26, 27, or 41. TTB proposes in this document to add appropriate regulatory text in 27 CFR 26.200 (regarding distilled spirits, wine, and beer brought into the United States from the U.S. Virgin Islands), 27.45 (regarding the time of the determination of the tax on beer), 27.48 (regarding the importation of distilled spirits, wine, and beer), and new 41.84 (regarding the importation of tobacco products) to reflect these statutory provisions.

IV. Public Participation

A. Comments Invited

TTB invites comments from interested members of the public on this proposed rulemaking. Regarding the effective date for these regulations, TTB solicits views on the amount of time that importers believe would be needed to develop functionality to file TTB data electronically. In the Interim Final Rule, "Automated Commercial Environment (ACE) Filings for Electronic Entry/Entry Summary (Cargo Release and Related Entry)," 80 FR 61278, 61281 (2015), CBP announced that it is considering a "proposal to eliminate hybrid filing." That proposal would require importers to choose between submitting CBP entry and entry summary documentation (including all required TTB and other Partner Government Agency data) either entirely electronically or entirely on paper. CBP would no longer accept any hybrid filings, except in limited circumstances. This would mean that if an importer files one paper document not covered by the limited exceptions, the entire filing, including the report to CBP, must be on paper. TTB is interested in comments from the public regarding how their implementation of the TTB electronic filing processes described in this document would be impacted by a CBP decision to eliminate hybrid filing.

TTB is currently allowing importers that are prepared to file electronically to do so through a pilot program announced by TTB in a **Federal Register** notice, "Importation of Distilled Spirits, Wine, Beer, Tobacco Products, Processed Tobacco, Cigarette Papers and Tubes; Availability of Pilot Program and Filing Instructions to Test the Collection of Import Data for Implementation of the International Trade Data System," (80 FR 47558, August 7, 2015). Importers participating in the pilot program are doing so under an alternate method published by TTB in Industry Circular 2015–1 on *www.ttb.gov*. TTB encourages importers to participate in the pilot program, test the usability and functionality of the TTB PGA Message Set, and provide comments.

B. Submitting Comments

Please submit your comments by the closing date shown above in this document. You may submit comments in one of the following three ways:

- *Federal e-Rulemaking Portal:* You may send comments via the online comment form associated with this document in Docket No. TTB–2016–0004 on "*Regulations.gov*," the Federal e-rulemaking portal, at *https://www.regulations.gov*. A direct link to that docket is available under Notice No. 159 on the TTB Web site at *https://www.ttb.gov/regulations_laws/all_rulemaking.shtml*. Supplemental files may be attached to comments submitted via *Regulations.gov*. For information on how to use *Regulations.gov*, click on the site's Help tab.
- *U.S. Mail:* You may send comments via postal mail to the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005.
- *Hand Delivery/Courier:* You may hand-carry your comments or have them hand-carried to the Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 400, Washington, DC 20005.

Your comments must reference Notice No. 159 and include your name and mailing address. Your comments also must be made in English, be legible, and be written in language acceptable for public disclosure. TTB does not accept anonymous comments, does not acknowledge receipt of comments, and considers all comments as originals.

If you are commenting on behalf of an association, business, or other entity, your comment must include the entity's name as well as your name and position title. If you comment via *Regulations.gov*, please enter the entity's name in the "Organization" blank of the comment form. If you comment via mail, please submit your entity's comment on letterhead.

You may also write to the Administrator before the comment closing date to ask for a public hearing. The Administrator reserves the right to determine whether to hold a public hearing.

C. Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider confidential or inappropriate for public disclosure.

D. Public Disclosure

On the Federal e-rulemaking portal, *Regulations.gov*, TTB will post, and the public may view, copies of this document and any electronic or mailed comments we receive about it. A direct link to the *Regulations.gov* docket containing this document and the posted comments received on it is available on the TTB Web site at *https://www.ttb.gov/regulations_laws/all_rulemaking.shtml* under Notice No. 159. You may also reach the docket containing this document and its related comments through the *Regulations.gov* search page at *https://www.regulations.gov*.

All posted comments will display the commenter's name, organization (if any), city, and State, and, in the case of mailed comments, all address information, including email addresses. TTB may omit voluminous attachments or material that the Bureau considers unsuitable for posting.

You and other members of the public may view copies of this notice of proposed rulemaking and any electronic or mailed comments TTB receives on it by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. You may also obtain copies at 20 cents per 8.5- x 11-inch page. Contact the TTB information specialist at the above address or by telephone at 202–453–2270 to schedule an appointment or to request copies of comments or other materials.

V. Regulatory Analysis and Notices

A. Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, a regulatory impact assessment is not required.

B. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), TTB has analyzed the potential economic effects of this action on small entities. In lieu of the initial regulatory flexibility analysis required to accompany proposed rules under 5 U.S.C. 603, section 605 allows the head of an agency to certify that a rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The following analysis provides the factual basis for TTB's certification under section 605.

Impact on Small Entities

While TTB believes the majority of businesses subject to this proposed rule are small businesses, the changes proposed in this document will not have a significant impact on those small entities. Electronic filing will not be required under the proposed changes. For entities filing on paper, the proposed changes will generally only require that certain additional information must be kept as a record. Furthermore, the majority of changes that TTB is proposing in this document would provide importers with more predictability regarding the data required at importation, and the proposed electronic filing option would allow importers to more easily provide information required to import alcohol and tobacco products. This would facilitate the movement of the commodities from the port of entry into U.S. commerce, and reduce the possibility of cargo being delayed at the port. As small entities typically have fewer resources than large entities to devote to regulatory compliance and logistics, these benefits could have a disproportionately positive effect for small entities.

In addition, these changes will allow importers the option to provide data required by the U.S. government in order to clear their imported goods through a single window, rather than the current practice of filling out separate forms for commodities subject to regulation by multiple Federal agencies.

The changes in the proposed rule can be divided into three classes with respect to their impact on entities: (1)

Providing an electronic filing alternative to requirements to submit paper documents to CBP as part of the customs entry or entry summary filing; (2) replacing reporting requirements with recordkeeping requirements, under which the importer must make documents available upon request; and (3) adding some filing requirements. An example of the electronic filing alternative is the proposal to address the COLA. Current regulations require that the COLA be "deposited with" CBP before the alcohol beverages covered by the COLA are released from customs custody. TTB is proposing instead to require that importers that file TTB data electronically input the number of the COLA with the filing of the customs entry. Electronic filing provides a non-paper alternative to submitting information. It is likely that such an alternative will be welcomed by importers that prefer to file electronically, as including paper documents in shipments is likely more burdensome than submitting data electronically. Paper COLAs will continue to be required from importers that do not file TTB data electronically.

An example of replacing reporting with recordkeeping is the proposal to address foreign certificates, which include certificates of age and origin for certain distilled spirits; certification of origin and identity for certain wine; and certification of proper cellar treatment of natural wine. In general, current regulations require that the foreign certificate "accompany" the importation. TTB is proposing instead that the importer obtain the certificate prior to importation and only make it available upon request. If filing TTB data electronically, at the filing of the entry or entry summary, the importer would certify that it has complied and will comply with these conditions. The burden of including paper documents in shipments is being removed for both electronic and paper filers in these instances.

An example of requiring new information is the proposal that importers that import alcohol or tobacco products subject to tax and file TTB data electronically provide at entry or entry summary: The importer's TTB permit number; the importer's EIN; the name and address of the ultimate consignee; the quantity of each product; and information identifying each product for IRC and/or FAA Act purposes. Importers that do not file electronically would be required to maintain records of the information to be made available upon request. TTB believes that the impact of this change would be minimal because much of this information is already submitted to CBP for CBP purposes.

In conclusion, while the entities affected by the proposed rule include a substantial number of small entities, the effects of the changes in this proposed rule in general, and in particular the provision of electronic filing alternatives and the replacement of reporting requirements with recordkeeping requirements, are expected to be positive for the affected entities. The proposals generally provide additional options for complying with import requirements and allow importers that prefer filing electronically to meet TTB requirements through electronic means.

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), TTB certifies that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposed rule will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposed rule is not expected to have significant secondary or incidental effects on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. Pursuant to 26 U.S.C. 7805(f), TTB will submit the proposed regulations to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the proposed regulations on small businesses.

C. Paperwork Reduction Act

Regulations addressed in this document contain current collections of information that have been previously reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3504(h)) and assigned control numbers 1513–0020, 1513–0025, 1513–0056, 1513–0059, 1513–0062, 1513–0064, 1513–0088, 1513–0106, and 1513–0119. The specific regulatory sections in this proposed rule that contain collections of information, either current or proposed, are §§ 1.58, 4.27, 4.40, 4.45, 4.53, 4.70, 5.45, 5.51, 5.52, 5.56, 7.31, 26.200, 26.205, 26.273a, 26.276, 26.292, 26.294, 26.296, 26.301, 26.302, 26.314, 26.318, 26.319, 26.331, 27.48, 27.76, 27.77, 27.137, 27.138, 27.140, 27.172, 27.204, 27.208, 27.209, 27.221, 41.81, 41.86, 41.204, and 41.265. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Several amendments proposed in this document would allow importers to file information required at importation electronically, rather than on paper. In many cases, the proposed regulations require information that the importer would already file as part of its customs entry or entry summary in order to meet CBP requirements and, in such cases, the information submitted to CBP to meet CBP requirements would also satisfy the TTB requirements. In some cases, new information is required to be submitted at importation. Whether the information is information currently required to be submitted at importation or whether it is a new requirement, the importer has the option of filing the TTB data electronically with CBP. Regardless of the method of filing, the importer must retain and provide the information upon request. TTB has submitted a revision to OMB control number 1513–0064, Importers' Records and Reports, to include the information that TTB is proposing to require importers that file TTB data electronically to submit electronically at entry or entry summary, as well as the information that must made available by all importers upon request. Upon revision of OMB control number 1513–0064, that collection will include information related to importers' compliance with the Federal Alcohol Administration Act (FAA Act) and with the Internal Revenue Code of 1986 (IRC), as described below.

Under the proposed regulations, persons who import, or bring into the United States from the U.S. Virgin Islands, distilled spirits, wine, or malt beverages under an FAA Act basic permit and who file TTB data electronically would be required to submit certain information to show compliance with FAA Act provisions. Under proposed § 1.58, every person required to obtain a basic permit as an importer must, when importing distilled spirits, wine, or malt beverages under that permit and filing TTB data electronically, file the number of the permit with CBP along with the filing of the customs entry, and, regardless of the method of filing, must make the permit available upon request.

Further, current §§ 4.27, 4.45, and 5.52, require foreign certificates, which include certification of vintage wine, certification of origin and identity for certain wine, certification of proper cellar treatment of natural wine (as required under 27 CFR 27.140), and certification of age and origin for certain distilled spirits. Under current regulations, the importer must obtain such certificates prior to importation; importations of products subject to such requirements generally must be accompanied by the certificates. Under the proposed regulations at §§ 4.45 and 5.52, the importer must make the applicable certificate available upon request. If filing TTB data electronically, as part of the customs filing, the importer may be asked to make an attestation that it has obtained a certificate and will make it available upon request. In addition, TTB proposes to add § 4.53 to clarify that bottlers of bulk imported wine must also possess a certificate of origin or a certification of proper cellar treatment of natural wine (as required under 27 CFR 27.140), when applicable, that provides the same information as a certificate required for importers of wine in bottles. Proposed §§ 4.53 and 5.56 also specify the applicable record retention requirements for the certificates. TTB proposes to remove the certification of vintage wine requirement from § 4.27 and to require industry members to demonstrate upon request that the wine is entitled to be labeled with the vintage date. (The natural wine certificate required by §§ 4.45 and 27.140 is currently included in the collection of information assigned OMB control number 1513–0119, Certification of Proper Cellar Treatment for Imported Natural Wine. TTB has submitted to OMB a revision of that information collection to make reference to § 4.45.)

The amendments proposed to §§ 4.70 and 5.45 would incorporate the exceptions to the standards of fill for imported wine and imported distilled spirits (respectively), currently found in §§ 4.46 and 5.53, stating that the standards of fill do not apply to such wine or distilled spirits bottled or packed before January 1, 1979 (or before July 1, 1989 in the case of distilled spirits in 500 mL containers). Under the proposed amendment, the currently-required foreign certificate must be made available to TTB upon request, instead of accompanying the shipment.

For bottled distilled spirits, wine, or malt beverages, the proposed regulations also require from those filing TTB data electronically the submission of the TTB-assigned number of the product's valid certificate of label approval (COLA). TTB proposes to amend regulatory sections that currently require the depositing of the COLA, TTB Form 5100.31, with CBP at the port of entry of a shipment, in order for the bottled distilled spirits, wine, or malt beverage to be released from customs custody. As proposed, if the importer is filing the TTB data electronically, the importer would not deposit the COLA with CBP but, rather, would file along with the customs entry the TTB-assigned number of the approved COLA that corresponds to the label on the bottle of distilled spirits, wine, or malt beverage. If the importer is not filing TTB data electronically, a paper COLA will continue to be required at entry. Currently, the requirement that importers deposit the applicable COLA with CBP is set forth in §§ 4.40, 5.51, and 7.31 and is covered by OMB control number 1513–0020, Application for and Certification/Exemption of Label/Bottle Approval (TTB F 5100.31), which also covers the information collected on the form used to apply for the COLA. As part of this rulemaking, TTB will include the electronic submission of the TTB-assigned COLA number in OMB control number 1513–0064.

In addition to the FAA Act provisions described above, under the proposed amendments, persons who import, or bring into the United States from the U.S. Virgin Islands, distilled spirits, wine, beer, tobacco products, processed tobacco, or cigarette papers or tubes that are either released from customs custody subject to tax or without payment of tax in bulk under certain exemptions would be required to submit and/or make available upon request certain information to show compliance with IRC provisions. The proposed amendments that affect the collection of information are described below.

Proposed amendments to §§ 26.200, 26.301, 27.48, 27.172, 41.81, 41.86, and new 41.265 set forth new data elements (in addition to the FAA Act basic permit number, where applicable, as described above) that must be filed with CBP when filing TTB data electronically and, regardless of the method of filing, be kept as a record and made available upon request. As noted above, in some cases this information will already be filed by the importer pursuant to CBP guidelines (either mandated or provided at the discretion of the importer) and, if the importer files the information for CBP purposes, the importer will satisfy the TTB requirement without additional action. In other cases, the information is specific to the IRC or FAA Act and will not already be filed by the importer with CBP for CBP purposes. When using the option to file TTB data electronically, the data elements required by the proposed amendments to §§ 26.200, 27.48, and 41.81 are as follows, with some variation depending on the products and circumstances covered under the specific section: The number of the importer's FAA Act basic permit; the importer's name, address, and employer identification number (EIN) associated with that permit; the name and address of the ultimate consignee; the quantity of each product; and information identifying each product for IRC and/or FAA Act purposes. The proposed amendments also require similar information for releases of certain products from customs custody without payment of tax under proposed §§ 26.301, 27.172, and 41.86 and, for releases of processed tobacco, which is not subject to tax, under new § 41.265.

Sections 26.273a, 26.301, and 27.138 set forth the transfer records applicable to distilled spirits, wine, and beer withdrawn from customs custody without payment of tax for delivery to specified TTB-bonded facilities. Distilled spirits transfer records are currently covered by OMB control number 1513–0056. The existing regulations only cover distilled spirits transfer records; the proposed regulations add wine and beer transfer records. For those who will file TTB data electronically, the proposed regulations also require the reporting of information from the transfer records with the CBP entry. The information required to be recorded and reported, as applicable, under the proposed regulations includes the following, with some variation depending on the product: The date the record is prepared; the name and address of the bonded premises receiving the distilled spirits, wine, or beer from customs custody; the TTB-issued registry number of the bonded premises receiving the distilled spirits, wine, or beer from customs custody; the number of containers transferred and the quantity in each container; the country of origin; the customs entry number and amount of duty paid; and the foreign producer.

Current § 26.205 requires that persons, other than tourists, bringing liquors or articles under part 26 into the United States from the Virgin Islands obtain a certificate from the manufacturer showing certain information. TTB proposes to amend that section to specify that a copy of the certificate must be retained along with other records needed to substantiate the information in the certificate, and those records must be made available upon request. Proposed § 26.205 also requires that the importers that file TTB data electronically must file the information included on the certificate in accordance with the provisions of § 26.200.

This document also includes proposals to amend the regulations in part 26 and 27 relating to records of shipments of industrial spirits, specially denatured spirits, and completely denatured spirits. Section 26.292 requires that a copy of the consignee's permit for shipments of industrial spirits or specially denatured spirits brought into the United States from the U.S. Virgin Islands be filed with CBP. The proposed amendment to that section provides that the permit number be submitted electronically, if the importer is filing TTB data electronically, and must be made available upon request. As discussed below, amendments to §§ 26.294 and 26.296 require the reporting with the CBP entry of the names and addresses of the consignor and the consignee and consignor as well as the total quantity shipped.

Sections 26.318 and 27.208 address requirements related to liquor bottles being imported or brought into the United States, and provide a letterhead application process for importers that wish to bring into the United States filled liquor bottles that do not conform to the regulatory requirements in part 26. The proposed amendments specify that the proof of authorization must be retained for a three-year period and made available upon request.

TTB is also proposing to remove references to submissions of information in triplicate. See §§ 26.331, 27.209, and 27.221.

TTB is proposing to amend §§ 27.76 and 27.77 regarding the approval and certification of wine and flavors content and the approval of a standard effective tax rate for importers. In both cases, the amendments will remove the requirement that a TTB approval letter or certificate be filed with CBP. Under the proposed regulations, the approval letter or certificate would be made available upon request. Proposed §§ 27.76 and 27.77 also include record retention requirements.

Finally, TTB is proposing to amend §§ 26.276, 27.137, and 41.204, which currently set forth certain recordkeeping requirements for all documents or copies of documents that support records required by parts 26, 27, and 41, respectively. TTB proposes to amend sections §§ 26.276 and 27.137 to clarify that: (1) The length of time for which the records must be kept is measured from the time of withdrawal from customs custody; (2) the records must be made available upon request of a customs officer or the appropriate TTB officer, rather than made available during business hours as the texts of these sections currently states; and (3) supporting documents that must be kept include data filed with CBP pursuant to CBP requirements. TTB proposes to amend § 41.204 to provide that importers of tobacco products and cigarette papers or tubes must keep records of such products received and disposed of, but also of any of these products released from customs custody under the importer's TTB permit. (Current requirements of § 41.204 are covered by OMB control number 1513–0106. The proposed requirements are being submitted to OMB control number 1513–0064.)

TTB believes that these proposed requirements are necessary to ensure that:

- Persons engaged in business as importers are operating under the permit required by Federal law to engage in such operations;
- Applicable taxes are paid;
- Commodities released from customs custody without payment of tax for transfer in bond are eligible for such release, are sent to eligible bonded facilities, and are not diverted; and
- Labels applied to containers of imported alcohol beverages comply with FAA Act requirements.

TTB estimates that, as a result of the amendments, the new annual burden hours associated with OMB control number 1513–0064 will change. The new estimates are:

- *Estimated number of respondents:* 10,521.
- *Estimated average annual burden hours:* 21,042.

The revision of 1513–0064 generally consolidates the information required of importers to be filed as part of the customs entry or entry summary, or kept as a record relating to the entry or entry summary. Such consolidation entails removing requirements that currently appear in other information collections. TTB has submitted to OMB a revision of OMB control number 1513–0056, TTB REC 5110/05, Distilled Spirits Plants—Transaction and Supporting Records, to remove references to §§ 26.273a, 26.301, 27.138, and 27.172 that would now be captured under OMB control number 1513–0064, as described above. The estimated number of respondents (620) and estimated average annual burden hours (13,516) for 1513–0056 remain unchanged.

In addition, TTB has submitted to OMB revisions of OMB control numbers 1513–0059, TTB REC 5150/3, Usual and Customary Business Records Relating to Tax-Free Alcohol, and 1513–0062, TTB REC 5150/1, Usual and Customary Business Records Relating to Denatured Spirits. Proposed amendments to the regulations at §§ 26.294 and 26.296 allow certain information relating to shipments from the U.S. Virgin Islands of industrial spirits, specially denatured spirits or completely denatured spirits to be filed electronically at the time of filing the entry or entry summary, as appropriate. Regardless of the method of filing, the record of shipment must be retained and be made available upon request. These electronic submissions will be placed under OMB control number 1513–0064. The estimated number of respondents for OMB control number 1513–0059 (5,268) and for OMB control number 1513–0062 (3,430) and the estimated average annual burden hours for each (one, for usual and customary business records) remain unchanged. TTB has also submitted to OMB a revision of OMB control number 1513–0088, TTB REC 5000/24, Alcohol, Tobacco, and Firearms Related Documents for Tax Returns and Claims, to remove the information collections in §§ 27.48, 27.137, and 41.81, which will now be included in revised OMB control number 1513–0064. OMB control number 1513–0088 is also revised to state that the information that must be maintained as a record includes all supporting documents, including information submitted to CBP to meet CBP requirements. Such information must be retained for three years. The estimated number of respondents for OMB control number 1513–0088 (503,921) and the estimated average annual burden hours for each (one, for usual and customary business records) remain unchanged.

As noted above, TTB has submitted the revised information collection requirements to the OMB for review. Comments on these new recordkeeping and reporting requirements should be sent to OMB at Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503 or by email to *OIRA_submissions@omb.eop.gov.* A copy should also be sent to TTB by any of the methods previously described. Comments on the information collections should be submitted no later than August 22, 2016. Comments are specifically requested concerning:

- Whether the collections of information submitted to OMB are necessary for the proper performance of the functions of the Alcohol and Tobacco Tax and Trade Bureau, including whether the information will have practical utility;
- The accuracy of the estimated burdens associated with the collections of information submitted to OMB;
- How to enhance the quality, utility, and clarity of the information to be collected;
- How to minimize the burden of complying with the proposed revisions of the collections of information, including the application of automated collection techniques or other forms of information technology; and

- Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Lists of Subjects

27 CFR Part 1

Administrative practice and procedure, Alcohol and alcoholic beverages, Imports, Liquors, Packaging and containers, Warehouses, Wine.

27 CFR Part 4

Advertising, Alcohol and alcoholic beverages, Customs duties and inspection, Food additives, Imports, International agreements, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Trade practices, Wine.

27 CFR Part 5

Advertising, Alcohol and alcoholic beverages, Customs duties and inspection, Food additives, Grains, Imports, International agreements, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Trade practices.

27 CFR Part 7

Advertising, Alcohol and alcoholic beverages, Beer, Customs duties and inspection, Food additives, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Trade practices.

27 CFR Part 26

Alcohol and alcoholic beverages, Caribbean Basin Initiative, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Virgin Islands, Warehouses.

27 CFR Part 27

Alcohol and alcoholic beverages, Beer, Cosmetics, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Wine.

27 CFR Part 41

Cigars and cigarettes, Claims, Customs duties and inspection, Electronic funds transfers, Excise taxes, Imports, Labeling, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Surety bonds, Tobacco, Virgin Islands, Warehouses.

Amendments to the Regulations

For the reasons discussed above in the preamble, TTB proposes to amend 27 CFR parts 1, 4, 5, 7, 26, 27, and 41 as follows:

PART 1—BASIC PERMIT REQUIREMENTS UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT, NONINDUSTRIAL USE OF DISTILLED SPIRITS AND WINE, BULK SALES AND BOTTLING OF DISTILLED SPIRITS

■ 1. The authority citation for part 1 continues to read as follows:

Authority: 27 U.S.C. 203, 204, 206, 211 unless otherwise noted.

■ 2. Section 1.10 is amended by adding a definition of "Malt beverage" in alphabetical order to read as follows:

§ 1.10 Meaning of terms.

* * * * *

Malt beverage. A beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption. Standards applying to the use of processing methods and flavors in malt beverage production appear in § 7.11 of this chapter.

* * * * *

■ 3. Section 1.58 is revised to read as follows:

§ 1.58 Filing of permits.

Every person receiving a basic permit under the provisions of this part must maintain the permit at the place of business covered by the permit and make it available upon the request of the appropriate TTB officer. Every person required to obtain a basic permit as an importer under § 1.20 must, when importing distilled spirits, wine, or malt beverages under that permit and filing TTB data electronically, file the number of the permit with U.S. Customs and Border Protection (CBP) along with the filing of the customs entry. Regardless of the method of filing, every importer must make the permit available upon request by the appropriate TTB officer or a customs officer.

PART 4—LABELING AND ADVERTISING OF WINE

■ 4. The authority citation for part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted.

■ 5. Section 4.10 is amended by adding a definition of "Customs officer" in alphabetical order to read as follows:

§ 4.10 Meaning of terms.

* * * * *

Customs officer. An officer of U.S. Customs and Border Protection (CBP) or any agent or other person authorized by law to perform the duties of such an officer.

* * * * *

■ 6. Section 4.27 is amended by revising paragraph (c)(3) to read as follows:

§ 4.27 Vintage wine.

* * * * *

(c) * * *

(3) The wine is of the vintage shown, the laws of the country of origin regulate the appearance of vintage dates upon the labels of wine produced for consumption within the country of origin, the wine has been produced in conformity with those laws, and the wine would be entitled to bear the vintage date if it had been sold within the country of origin. The importer of the wine imported in bottles or the domestic bottler of wine imported in bulk and bottled in the United States must be able to demonstrate, upon request by the appropriate TTB officer or a customs officer, that the wine is entitled to be labeled with the vintage date.

■ 7. Section 4.40 is amended by:

■ a. Revising paragraph (a);

■ b. Removing and reserving paragraph (b); and

■ c. Adding an Office of Management and Budget control number reference at the end of the section.

The revision and addition read as follows:

§ 4.40 Label approval and release.

(a) *Certificate of label approval.* Wine, imported in containers, is not eligible for release from customs custody for consumption, and no person may remove such wine from customs custody for consumption, unless the person removing the wine has obtained and is in possession of a certificate of label approval (COLA) and the containers bear labels identical to the labels appearing on the face of the certificate, or labels with changes authorized by the form. Any person removing wine in containers from customs custody for consumption must first apply for and obtain a COLA covering the wine from the appropriate TTB officer, and, if filing electronically, the importer must file with U.S. Customs and Border Protection (CBP), at the time of filing the customs entry, the TTB-assigned number of the valid

COLA that corresponds to the label on the brand or lot of wine to be imported. If the importer is not filing electronically, the importer must provide a copy of the COLA to CBP at time of entry. In addition, the importer must provide a copy of the applicable COLA upon request by the appropriate TTB officer or a customs officer. The COLA requirement imposed by this section applies only to wine that is removed for sale or any other commercial purpose. See 27 CFR 27.49, 27.74 and 27.75 for labeling exemptions applicable to certain imported samples of wine.

* * * * *

Approved by the Office of Management and Budget under control numbers 1513–0020 and 1513–0064)

■ 8. Section 4.45 is amended by revising paragraph (a) and by adding paragraph (c) and an Office of Management and Budget control number reference at the end of the section to read as follows:

§ 4.45 Certificates of origin, identity, and proper cellar treatment.

(a) *Certificate of origin and identity.* Wine imported in containers is not eligible for release from customs custody for consumption, and no person may remove such wine from customs custody for consumption, unless that person has obtained, and is in possession of an invoice accompanied by a certificate of origin issued by the appropriate foreign government if that country requires the issuance of such a certificate for wine exported from that country. The certificate must have been issued by an official duly authorized by the foreign government, and it must certify as to the identity of the wine and that the wine has been produced in compliance with the laws of the foreign country regulating the production of the wine for home consumption.

(b) * * *

(c) *Retention of certificates.* The importer of wine imported in containers must retain for five years following the date of the removal of the bottled wine from customs custody copies of the certificates (and accompanying invoices, if required) required by paragraphs (a) and (b) of this section, and must provide them upon request of the appropriate TTB officer or a customs officer.

(Approved by the Office of Management and Budget under control numbers 1513–0064 and 1513–0119)

§ 4.46 [Removed]

■ 9. Section 4.46 is removed.

■ 10. Section 4.53 is added to subpart F to read as follows:

§ 4.53 Retention of certificates.

Wine that would be required under § 4.45 to be covered by a certificate of origin and identity and/or a certification of proper cellar treatment and that is imported in bulk for bottling in the United States may be removed for consumption from the premises where bottled only if the bottler possesses a certificate of origin and identity and/or a certification of proper cellar treatment of natural wine applicable to the wine that provides the same information as a certificate required under § 4.45(a) and (b) would provide for like wine imported in bottles. The bottler of wine imported in bulk must retain for five years following the removal of such wine from the bonded wine cellar where bottled copies of the certificates required by § 4.45(a) and (b), and must provide them upon request of the appropriate TTB officer.

(Approved by the Office of Management and Budget under control number 1513–0064)

■ 11. Section 4.70 is amended by:

■ a. In paragraph (b)(3), removing the word "or" following the semi-colon;

■ b. Redesignating paragraph (b)(4) as paragraph (b)(5);

■ c. Adding new paragraph (b)(4), and

■ d. Adding an Office of Management and Budget control number reference at the end of the section.

The additions read as follows:

§ 4.70 Application.

* * * * *

(b) * * *

(4) Imported wine bottled or packed before January 1, 1979, and certified as to such in a statement, available to the appropriate TTB officer upon request, signed by an official duly authorized by the appropriate foreign government; or

* * * * *

(Approved by the Office of Management and Budget under control number 1513–0064)

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

■ 12. The authority citation for part 5 continues to read as follows:

Authority: 26 U.S.C. 5301, 7805, 27 U.S.C. 205.

■ 13. Section 5.11 is amended by adding a definition of "Customs officer" in alphabetical order to read as follows:

§ 5.11 Meaning of terms.

* * * * *

Customs officer. An officer of U.S. Customs and Border Protection (CBP) or any agent or other person authorized by law to perform the duties of such an officer.

* * * * *

■ 14. Section 5.45 is revised to read as follows:

§ 5.45 Application.

(a) Except as provided in paragraph (b) of this section, no person engaged in business as a distiller, rectifier, importer, wholesaler, or warehouseman and bottler, directly or indirectly, or through an affiliate, shall sell or ship or deliver for sale or shipment, or otherwise introduce in interstate or foreign commerce, or receive therein or remove from customs custody any distilled spirits in bottles unless such distilled spirits are bottled and packed in conformity with §§ 5.46 through 5.47a.

(b) Section 5.47a does not apply to:

(1) Imported distilled spirits in the original containers in which entered into Customs custody on or before December 31, 1979 (or on or before June 30, 1989 in the case of distilled spirits imported in 500 mL containers); or

(2) Imported distilled spirits bottled or packed prior to January 1, 1980 (or prior to July 1, 1989 in the case of distilled spirits in 500 mL containers) and certified as to such in a statement signed by an official duly authorized by the appropriate foreign government.

(Sec. 5, 49 Stat. 981, as amended (27 U.S.C. 205); 26 U.S.C. 5301)

(Approved by the Office of Management and Budget under control number 1513–0064)

§ 5.47a [Amended]

■ 15. Section 5.47a is amended in paragraph (d) by removing the parenthetical sentence at the end of the paragraph.

■ 16. Section 5.51 is amended by:

■ a. Revising paragraph (a);

■ b. Removing and reserving paragraphs (b) and (d); and

■ c. Adding an Office of Management and Budget control number reference at the end of the section.

The revision and addition read as follows:

§ 5.51 Label approval and release.

(a) *Certificate of label approval.* Distilled spirits, imported in bottles, are not eligible for release from customs custody for consumption, and no person may remove such distilled spirits from customs custody for consumption, unless the person removing the distilled spirits has obtained and is in possession of a certificate of label approval (COLA) and the bottles bear labels identical to the labels appearing on the face of the certificate, or labels with changes authorized by the form. Any person removing distilled spirits in bottles from customs custody for consumption must first apply for and obtain a COLA covering the distilled spirits from the appropriate TTB officer, and, if filing electronically, the importer must file with U.S. Customs and Border Protection (CBP), at the time of filing the customs entry, the TTB-assigned identification number of the valid COLA that corresponds to the label on the brand or lot of imported distilled spirits to be imported. If the importer is not filing electronically, the importer must provide a copy of the COLA to CBP at time of entry. In addition, the importer must provide a copy of the applicable COLA upon request by the appropriate TTB officer or a customs officer. The COLA requirement imposed by this section applies only to distilled spirits that are removed for sale or any other commercial purpose. See 27 CFR 27.49, 27.74 and 27.75 for labeling exemptions applicable to certain imported samples of distilled spirits.

* * * * *

(Approved by the Office of Management and Budget under control numbers 1513–0020 and 1513–0064)

■ 17. Section 5.52 is amended by:

■ a. Revising paragraphs (a), (b), (c), the introductory text of paragraph (d), and paragraph (e);

■ b. Adding paragraph (f); and

■ c. Adding an Office of Management and Budget control number reference at the end of the section.

The revisions and additions read as follows:

§ 5.52 Certificates of age and origin.

(a) *Scotch, Irish, and Canadian whiskies.* (1) Scotch, Irish, and Canadian whiskies, imported in bottles, are not eligible for release from customs custody, and no person may remove such whiskies from customs custody, unless that person has obtained and is in possession of an invoice accompanied by a certificate of origin issued by an official duly authorized by the British, Irish, or Canadian Government, certifying:

(i) That the particular distilled spirits are Scotch, Irish, or Canadian whisky, as the case may be;

(ii) That the distilled spirits have been manufactured in compliance with the laws of the respective foreign governments regulating the manufacture of whisky for home consumption; and

(iii) That the product conforms to the requirements of the Immature Spirits Act of such foreign governments for spirits intended for home consumption.

(2) In addition, an official duly authorized by the appropriate foreign government must certify to the age of the youngest distilled spirits in the bottle. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been stored in oak containers.

(b) *Brandy, Cognac, and rum.* Brandy (other than fruit brandies of a type not customarily stored in oak containers) or Cognac, imported in bottles, is not eligible for release from customs custody for consumption, and no person may remove such brandy or Cognac from customs custody for consumption, unless the person so removing the brandy or Cognac possesses a certificate issued by an official duly authorized by the appropriate foreign country certifying that the age of the youngest brandy or Cognac in the bottle is not less than two years, or if age is stated on the label that none of the distilled spirits are of an age less than that stated. Rum imported in bottles that contain any statement of age is not eligible to be released from customs custody for consumption, and no person may remove such rum from customs custody for consumption, unless the person so removing the rum possesses a certificate issued by an official duly authorized by the appropriate foreign country, certifying to the age of the youngest rum in the bottle. The age certified shall be the period during which, after distillation and before bottling, the distilled spirits have been stored in oak containers. If the label of any fruit brandy, not stored in oak containers, bears any statement of storage in another type of container, the brandy is not eligible for release from customs custody for consumption, and no person may remove such brandy from customs custody for consumption, unless the person so removing the brandy possesses a certificate issued by an official duly authorized by the appropriate foreign government certifying to such storage. Cognac, imported in bottles, is not eligible for release from customs custody for consumption, and no person may remove such Cognac from customs custody for consumption, unless the person so removing the Cognac possesses a certificate issued by an official duly authorized by the French Government, certifying that the product is grape brandy distilled in the Cognac region of France and entitled to be designated as "Cognac" by the laws and regulations of the French Government.

(c) *Tequila.* (1) Tequila imported in bottles is not eligible for release from customs custody for consumption, and no person may remove such Tequila from customs custody for consumption, unless the person removing such Tequila possesses a certificate issued by an official duly authorized by the Mexican Government stating that the product is entitled to be designated as Tequila under the applicable laws and regulations of the Mexican Government.

(2) If the label of any Tequila imported in bottles contains any statement of age, the Tequila is not eligible for release from customs custody for consumption, and no person may remove such Tequila from customs custody for consumption, unless the person removing the Tequila possesses a certificate issued by an official duly authorized by the Mexican Government as to the age of the youngest Tequila in the bottle. The age certified shall be the period during which the Tequila has been stored in oak containers after distillation and before bottling.

(d) *Other whiskies.* Whisky, as defined in § 5.22(b)(1), (4), (5), and (6), imported in bottles, is not eligible for release from customs custody, and no person shall remove such whiskies from customs custody unless that person has obtained and is in possession of a certificate issued by an official duly authorized by the appropriate foreign government certifying:

(1) * * *

(2) * * *

(e) *Miscellaneous.* Distilled spirits (other than Scotch, Irish, and Canadian whiskies, and Cognac) imported in bottles are not eligible for release from customs custody, and no person shall remove such spirits from customs custody unless that person has obtained and is in possession of an invoice accompanied by a certificate of origin issued by an official duly authorized by the appropriate foreign government, if the issuance of such certificates with respect to such distilled spirits is required by the foreign government concerned, certifying as to the identity of the distilled spirits and that the distilled spirits have been manufactured in compliance with the laws of the respective foreign government regulating the manufacture of such distilled spirits for home consumption.

(f) *Retention of certificates.* The importer of distilled spirits imported in bottles must retain for five years following the removal of such spirits from customs custody copies of the certificates required by paragraphs (a) through (e) of this section, and must provide them upon request of the appropriate TTB officer or a customs officer.

(Approved by the Office of Management and Budget under control number 1513–0064)

§ 5.53 [Removed]

■ 18. Section 5.53 is removed.

■ 19. Section 5.56 is revised to read as follows:

§ 5.56 Certificates of age and origin.

Distilled spirits that would be required under § 5.52 to be covered by a certificate of age and/or a certificate of origin and that are imported in bulk for bottling in the United States may be removed from the plant where bottled only if the bottler possesses a certificate of age and/or a certificate of origin applicable to the spirits that provides the same information as a certificate required under § 5.52 would provide for like spirits imported in bottles. The bottler of distilled spirits imported in bulk must retain for five years following the removal of such spirits from the domestic plant where bottled copies of the certificates required by § 5.52(a) through (e), and must provide them upon request of the appropriate TTB officer.

(Approved by the Office of Management and Budget under control number 1513–0064)

PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES

■ 20. The authority citation for part 7 continues to read as follows:

Authority: 27 U.S.C. 205.

■ 21. Section 7.10 is amended by adding a definition of "Customs officer" in alphabetical order to read as follows:

§ 7.10 Meaning of terms.

* * * * *

Customs officer. An officer of U.S. Customs and Border Protection (CBP) or any agent or other person authorized by law to perform the duties of such an officer.

* * * * *

■ 22. Section 7.31 is amended by:

■ a. Revising paragraph (a);

■ b. Removing and reserving paragraph (b); and

■ c. Adding an Office of Management and Budget control number reference at the end of the section.

The revision and addition read as follows:

§ 7.31 Label approval and release.

(a) *Certificate of label approval.* Malt beverages, imported in containers, are not eligible for release from customs custody for consumption, and no person may remove such malt beverages from customs custody for consumption, unless the person removing the malt beverages has obtained and is in possession of a certificate of label approval (COLA) and the containers bear labels identical to the labels appearing on the face of the certificate, or labels with changes authorized by the form. Any person removing malt beverages in containers from customs custody for consumption must first apply for and obtain a COLA covering the malt beverages from the appropriate TTB officer, and, if filing electronically, the importer must file with U.S Customs and Border Protection (CBP), at the time of filing the customs entry, the TTB-assigned identification number of the valid COLA covering the label on the brand or lot of malt beverages being imported. If the importer is not filing electronically, the importer must provide a copy of the COLA to CBP at time of entry. In addition, the importer must provide a copy of the applicable COLA upon request by the appropriate TTB officer or a customs officer. The COLA requirement imposed by this section applies only to malt beverages that are removed for sale or any other commercial purpose. See 27 CFR 27.49, 27.74, and 27.75 for labeling exemptions applicable to certain imported malt beverages.

* * * * *

(Approved by the Office of Management and Budget under control numbers 1513–0020 and 1513–0064)

PART 26—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

■ 23. The authority citation for part 26 is revised to read as follows:

Authority: 19 U.S.C. 81c; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5061, 5111–5114, 5121, 5122–5124, 5131–5132, 5207, 5232, 5271, 5275, 5301, 5314, 5555, 6001, 6109, 6301, 6302, 6804, 7101, 7102, 7651, 7652, 7805; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

§ 26.1 [Amended]

■ 24. In § 26.1, paragraph (c) is amended by adding the words ", of Virgin Islands wine in bulk containers from customs custody to a bonded wine cellar qualified under part 24 of this chapter, and of Virgin Islands beer in bulk containers from customs custody to a brewery qualified under part 25 of this chapter" before the semicolon at the end of the paragraph.

■ 25. Section 26.11 is amended by:

■ a. Adding in alphabetical order definitions of "Bonded wine cellar" and "Brewery";

■ b. Revising the definitions of "Bulk container", "Customs officer", and "Importer"; and

■ c. Adding in alphabetical order definitions of "IRC registry number", "Natural wine", and "Proof liter".

The revisions and additions read as follows:

§ 26.11 Meaning of terms.

* * * * *

Bonded wine cellar. Premises established under part 24 of this chapter.

* * * * *

Brewery. The land and buildings described in the brewer's notice, TTB Form 5130.10, where beer is to be produced and packaged.

Bulk container. When used in the context of distilled spirits, the term "bulk container" means any container having a capacity larger than one wine gallon. When used in the context of wine, the term "bulk container" means any container having a capacity larger than 60 liters. When used in the context of beer, the term "bulk container" means any container having a capacity larger than one barrel of 31 gallons.

* * * * *

Customs officer. An officer of U.S. Customs and Border Protection (CBP) or any agent or other person authorized by law to perform the duties of such an officer.

* * * * *

Importer. Any person who brings distilled spirits, wines, or beer into the United States from the Virgin Islands.

* * * * *

IRC registry number. The number assigned by TTB to each distilled spirits plant, bonded wine cellar, taxpaid wine bottling house, bonded wine warehouse, or brewery upon approval of an application made pursuant to Internal Revenue Code of 1986 requirements (26 U.S.C. 5171, 5351–5353, or 5401).

* * * * *

Natural wine. The product of the juice or must of sound, ripe grapes or other sound, ripe fruit (including berries) made with any proper cellar treatment and containing not more than 21 percent by weight (21 degrees Brix dealcoholized wine) of total solids. For purposes of this definition, proper cellar treatment means a production practice or procedure authorized for natural wine by part 24 of this chapter, or, in the case of natural wine produced and imported subject to an international agreement or treaty, those practices and procedures acceptable to the United States under that agreement or treaty.

* * * * *

Proof liter. A liter of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity or the alcoholic equivalent thereof.

* * * * *

■ 26. Section 26.200 is amended by adding paragraphs (d), (e), (f), and (g), by revising the authority citation, and by adding an Office of Management and Budget control number reference at the end of the section, to read as follows:

§ 26.200 Taxable status.

* * * * *

(d) Internal revenue taxes payable on liquors brought into the United States from the Virgin Islands are collected by U.S. Customs and Border Protection (CBP) in accordance with CBP requirements. The tax must be paid on the basis of a return, and the customs form (including any electronic transmissions) by which the liquors are duty- and tax-paid to CBP will be treated as a return for purposes of this part. The person bringing such liquors into the United States, if filing electronically, must file the information specified in this section with the entry or entry summary, as appropriate, along with any other information that is required by CBP to be filed with the entry or entry summary for purposes of administering the provisions of the Internal Revenue Code and Federal Alcohol Administration Act (FAA Act). Any information required by this section that is also required by, and filed with, CBP as part of the entry or entry summary for purposes of meeting CBP requirements will satisfy the requirements of this section. The following information is required as described under this section:

(1) The permit number of the valid importer permit issued under the FAA Act and the regulations issued pursuant to the FAA Act (27 CFR part 1), if applicable, as required by 27 CFR 1.20 and 1.58, and the importer's name, address, and employer identification number (EIN) associated with that permit;

(2) The TTB-assigned number of the valid certificate of label approval (COLA), if applicable, as required by 27 CFR 4.40 in the case of wine, 27 CFR 5.51 in the case of distilled spirits, and 27 CFR 7.31 in the case of malt beverages;

(3) The name and address of the ultimate consignee;

(4) The quantity of each product (for distilled spirits, in proof liters or proof gallons; for wine and beer, in liters or gallons); and

(5) Information identifying each product for Internal Revenue Code and/or FAA Act purposes.

(e) Distilled spirits, natural wines, and beer in bulk containers may be released from customs custody without payment of tax under the provisions of subpart Oa of this part and thereafter removed subject to tax from internal revenue bonded premises. The tax will be collected and paid under the provisions of parts 19, 24, and 25 of this chapter, respectively.

(f) *Entry for warehousing.*—(1) *General.* Except as provided in paragraph (f)(2) of this section, in the case of an entry for warehousing (that is, products transferred directly to a customs bonded warehouse or foreign trade zone), the last day for payment of the tax shall not be later than the 14th day after the last day of the semimonthly period during which the products are removed from the first such warehouse, even if the products have been removed from that customs bonded warehouse or foreign trade zone for transfer to another customs bonded warehouse or foreign trade zone.

(2) *Entry for warehousing of products intended for export.* Paragraph (f)(1) of this section does not apply to any distilled spirits, wines, or beer entered for warehousing and then removed for transfer to another customs bonded warehouse or foreign trade zone that is shown to the satisfaction of the Secretary to be destined for export.

(g) *Records.* Regardless of the method of filing, the person bringing the liquors into the United States must retain as a record the information required by this section, any information provided to CBP to meet CBP requirements, and any supporting documentation. These records must be retained in accordance with the record retention requirements of § 26.276, and the records must be made available upon request of the appropriate TTB officer or a customs officer.

(26 U.S.C. 5001, 5054, 5061, 5232, 5364, 5418, 7652)

(Approved by the Office of Management and Budget under control number 1513–0064)

■ 27. Section 26.201c is revised to read as follows:

§ 26.201c Shipments of distilled spirits, natural wine, and beer to the United States without payment of tax.

Distilled spirits, natural wine, and beer may be brought into the United States from the Virgin Islands in bulk containers without payment of tax for transfer in bond from customs custody to the bonded premises of a distilled spirits plant in the case of distilled spirits, a bonded wine cellar in the case of natural wine, or a brewery in the case of beer. Such shipments are subject to the provisions of subpart Oa of this part.

■ 28. Section 26.202 is revised to read as follows:

§ 26.202 Requirements of the Federal Alcohol Administration Act.

(a) *General.* The Federal Alcohol Administration Act (FAA Act) and the regulations issued under the FAA Act (parts 1, 4, 5, and 7 of this chapter) provide that any person, except an agency of a State or political subdivision thereof or any officer or employee of any such agency, who brings into the United States from the Virgin Islands distilled spirits, wines, or malt beverages for nonindustrial use must comply with the permit and labeling requirements described in this section. See 27 CFR 1.10 for the definitions of distilled spirits, wine, and malt beverages under the FAA Act. Tourists bringing distilled spirits, wines, or malt beverages into the United States for personal or other noncommercial use are not subject to the provisions of the FAA Act or regulations issued pursuant to the FAA Act (parts 1, 4, 5, and 7 of this chapter).

(b) *FAA Act basic permit.* Any person, except an agency of a State or a political subdivision thereof or any officer or employee of any such agency, who intends to engage in the business of bringing distilled spirits, wines, or malt beverages into the United States from the Virgin Islands must, prior to bringing such products into the United States, obtain an importer's basic permit, in accordance with the requirements of the FAA Act and regulations issued pursuant to the FAA Act, and must file with U.S. Customs and Border Protection (CBP) the number associated with this permit when filing electronically as required under 27 CFR 1.58. Also, as required under § 1.58 of this chapter, if the importer is not filing electronically, the importer must have a copy of the FAA Act basic permit and make it available upon request of the appropriate TTB officer or a customs officer.

(c) *Certificate of label approval.* Any person and any agency of a State or political subdivision thereof or any officer or employee of such agency, removing for commercial purposes containers of distilled spirits, wines, or malt beverages from the Virgin Islands from customs custody for consumption, when filing electronically, must provide the TTB-assigned identification number of the valid certificate of label approval (COLA) for the distilled spirits, wines, or malt beverages with the filing of the customs entry, in accordance with the requirements of 27 CFR 4.40 in the case of wine, 27 CFR 5.51 in the case of distilled spirits, or 27 CFR 7.31 in the case of malt beverages. Also, as required under 27 CFR 4.40, 5.51, and 7.31, if the importer is not filing electronically, the importer must provide a copy of the valid COLA to CBP at the time of entry.

(d) *Foreign certificates.* Any person and any agency of a State or political subdivision thereof or any officer or employee of such agency, bringing into the United States from the Virgin Islands for commercial purposes and for consumption containers of distilled spirits or wines that require a certificate under 27 CFR 4.45(a) in the case of wine or 27 CFR 5.52 in the case of distilled spirits must be in possession of the certificate (and accompanying invoice, if applicable) at the time of release from customs custody.

(Secs. 3, 5, 49 Stat. 978, as amended, 981, as amended; 27 U.S.C. 203, 205)

■ 29. Section 26.205 is amended by:
■ a. Revising paragraph (b),
■ b. Adding paragraphs (c) and (d), and
■ c. Revising the Office of Management and Budget control number reference at the end of the section.

The revisions and additions read as follows:

§ 26.205 Certificate.

* * * * *

(b) The person bringing the liquors into the United States must file the information required under § 26.200, in accordance with that section.

(c) The person bringing liquors into the United States from the Virgin Islands must maintain a copy of the certificate described in paragraph (a) of this section along with records to substantiate the information on the certificate, including information required under § 26.204, in accordance with the record retention requirements of § 26.276 and must make them available upon request of the appropriate TTB officer or a customs officer.

(d) For distilled spirits, natural wine, or beer withdrawn from customs custody under the provisions of subpart Oa of this part, the importer must furnish a copy of the certificate to the proprietor of the receiving distilled spirits plant, bonded wine cellar, or brewery.

(Approved by the Office of Management and Budget under control number 1513–0064)

* * * * *

■ 30. Section 26.260 is revised to read as follows:

§ 26.260 Required information.

Persons (except tourists) bringing liquors from the Virgin Islands into the United States must file with U.S. Customs and Border Protection, at the time of filing the entry or entry summary, as appropriate, the information required under § 26.200, in accordance with that section, and provide any information collected by any gauge under § 26.204 and any information contained in the certificate described in § 26.205, upon request, in accordance with the provisions of §§ 26.204 and 26.205(c).

§ 26.261 [Removed and reserved]

■ 31. Section 26.261 is removed and reserved.

■ 32. Section 26.263 is revised to read as follows:

§ 26.263 Determination of tax on beer.

If the certificate prescribed in § 26.205 covers beer, the beer tax will be collected at the rates imposed by 26 U.S.C. 5051.

(68A Stat. 611, as amended; 26 U.S.C. 5051, 7652)

■ 33. The authority citation at the end of § 26.264 is revised to read as follows:

§ 26.264 Determination of tax on wine.

* * * * *

(68A Stat. 609, as amended; 26 U.S.C. 5041, 7652)

§ 26.273 [Amended]

■ 34. Section 26.273 is amended, after the word "plants", by adding ", bonded wine cellars, and breweries".

■ 35. Section 26.273a is revised to read as follows:

§ 26.273a Transfer record.

(a) *Distilled spirits.* The transfer record for Virgin Islands spirits prescribed in § 26.301 shall show the:

(1) Date prepared;

(2) Serial number of the transfer record, beginning with "1" each January 1;

(3) Name of the proprietor and TTB-issued IRC registry number of the plant to which consigned;

(4) Name and address of the consignor;

(5) Kind of spirits;

(6) Name of the producer;

(7) Age (in years, months and days) of the spirits;

(8) Proof of the spirits;

(9) Type and serial number of containers;

(10) Proof gallons of spirits in the shipment; and

(11) The customs entry number and amount of duty paid.

(b) *Natural wine.* The transfer record prescribed in § 26.301 must identify the importer and show the following:

(1) The date prepared;

(2) The name and address of the bonded wine cellar receiving the wine from customs custody;

(3) The TTB-issued IRC registry number of the bonded wine cellar receiving the wine from customs custody;

(4) The number of containers transferred and quantity of wine in each container;

(5) The country of origin of the wine;

(6) The customs entry number and amount of duty paid;

(7) The kind of wine; and

(8) The producer.

(c) *Beer.* The transfer record prescribed in § 26.301 must identify the importer and show the following:

(1) The date prepared;

(2) The name and address of the brewery receiving the beer from customs custody;

(3) The TTB-issued IRC registry number of the brewery receiving the beer from customs custody;

(4) The number of containers transferred and quantity of beer in each container;

(5) The country of origin of the beer;

(6) The customs entry number and amount of duty paid;

(7) The kind of beer; and

(8) The brewer.

(Approved by the Office of Management and Budget under control number 1513–0064)

(Sec. 807, Pub. L. 96–39, 93 Stat. 284 (26 U.S.C. 5207))

■ 36. Section 26.276 is amended by revising the first sentence and by adding an OMB control number reference to the end of the section, to read as follows:

§ 26.276 Retention.

All records required by this part, documents or copies of documents supporting these records (including data filed with U.S. Customs and Border Protection (CBP) pursuant to CBP requirements), and file copies of reports required by this part, must be retained for not less than three years from the date the shipment is released from customs custody into the United States, and during this period must be made available upon request of the appropriate TTB officer or a customs officer. * * *

(Approved by the Office of Management and Budget under control numbers 1513–0064 and 1513–0088)

■ 37. Section 26.292 is revised to read as follows:

§ 26.292 Consignee permit number.

If filing electronically, the consignor or consignee must file with U.S. Customs and Border Protection the number associated with the consignee's permit issued under part 20 of this chapter (for shipments of specially denatured spirits) or part 22 of this chapter (for shipments of industrial spirits), along with the customs entry. If not filing electronically, the consignor or consignee must make the permit available to the appropriate TTB officer or a customs officer upon request.

(Approved by the Office of Management and Budget under control number 1513–0064)

■ 38. Section 26.294 is revised to read as follows:

§ 26.294 Record of shipment.

(a) *Filing information with U.S. Customs and Border Protection.* Each person bringing industrial spirits or specially denatured spirits into the United States from the Virgin Islands, who files electronically, must file with U.S. Customs and Border Protection (CBP) the information specified in this paragraph, with the entry or entry summary, as appropriate. Any information required by this paragraph that is also required by, and filed with, CBP as part of the entry or entry summary for purposes of meeting CBP requirements will satisfy the requirements of this paragraph. In addition to the consignee's permit number or a copy of the consignee's permit as required by § 26.292, the following information is required:

(1) The name and address of the consignee;

(2) The name and address of the consignor; and

(3) The total quantity shipped.

(b) *Maintaining the record of shipment.* For each shipment of industrial spirits or specially denatured spirits from the Virgin Islands to the United States, the importer shall possess and maintain a record of shipment. The record of shipment shall consist of an invoice, bill of lading, or similar document that shows the information required in paragraph (a) of this section, as well as the following:

(1) For each formula of specially denatured spirits, the formula number prescribed by part 21 of this chapter;

(2) For each formula of specially denatured spirits, the total quantity in liters or gallons and the serial numbers or package identification numbers of containers; and

(3) For industrial spirits, the total quantity in proof liters or proof gallons and the package identification numbers of containers.

(c) *Retaining records and making them available upon request.* The person bringing industrial spirits or specially denatured spirits into the United States from the Virgin Islands must maintain records to substantiate the information required under paragraph (a) of this section, and any information provided to CBP to meet CBP requirements, in accordance with the record retention requirements of § 26.276. Such records also must be made available upon request of the appropriate TTB officer or a customs officer.

(Approved by the Office of Management and Budget under control number 1513–0064)

■ 39. Section 26.296 is revised to read as follows:

§ 26.296 Record of shipment.

(a) *Filing information with U.S. Customs and Border Protection.* Each person bringing completely denatured alcohol or products made with denatured spirits into the United States from the Virgin Islands, who files electronically, must file with U.S. Customs and Border Protection (CBP) the information specified in this paragraph with the entry or entry summary, as appropriate. Any information required by this paragraph that is also required by, and filed with, CBP as part of the entry or entry summary for purposes of meeting CBP requirements will satisfy the requirements of this paragraph. The following information is required:

(1) The consignor's name and address;

(2) The consignee's name and address; and

(3) The total quantity shipped.

(b) *Maintaining additional information as a record.* For each shipment of completely denatured alcohol or products made with denatured spirits from the Virgin Islands to the United States, the importer shall possess and maintain a record of shipment. The record of shipment shall consist of an invoice, bill of lading, or similar document that shows the information required under paragraph (a) of this section, as well as the following:

(1) The capacity and number of containers;

(2) For each formulation of completely denatured alcohol, the words "Virgin Islands Completely Denatured Alcohol" and the formula number prescribed by part 21 of this chapter; and

(3) For product made with denatured spirits, the name, trade name, or brand name of the product.

(c) *Retaining records and making them available upon request.* The person bringing completely denatured alcohol or products made with denatured spirits into the United States from the Virgin Islands must maintain records to substantiate the information required under paragraph (a) of this section and records as required under paragraph (b) of this section, and any information submitted to CBP to meet CBP requirements, in accordance with the record retention requirements of § 26.276. Such records also must be made available upon request of the appropriate TTB officer or a customs officer.

(Approved by the Office of Management and Budget under control number 1513–0064)

§ 26.297 [Removed]

■ 40. Section § 26.297 and the undesignated center heading immediately before it are removed.

Subpart Oa—Transfer of Virgin Islands Distilled Spirits, Natural Wines, and Beer Without Payment of Tax, From Customs Custody to Internal Revenue Bond

■ 41. The heading of subpart Oa is revised as set forth above.

■ 42. Section 26.300 is amended by:

■ a. Revising the section heading;

■ b. Removing "(a)" and "(b)" from the second sentence;

■ c. Designating the existing text as paragraph (a);

■ d. Adding a heading to newly designated paragraph (a); and

■ e. Adding paragraphs (b) and (c).

The revision and additions read as follows:

§ 26.300 General provisions.

(a) *Transfer of bulk distilled spirits from customs custody to bonded premises of a distilled spirits plant.*

* * *

(b) *Transfer of bulk natural wine from customs custody to a bonded wine cellar.* Bulk natural wine, as defined in § 26.11, brought into the United States from the Virgin Islands may, under the provisions of this subpart, be withdrawn by the proprietor of a bonded wine cellar from customs custody and transferred in bond in bulk containers to the bonded wine cellar, without payment of the internal revenue tax imposed on such wine by 26 U.S.C. 7652. Wine so withdrawn and transferred to a bonded wine cellar may be withdrawn from a bonded wine cellar's internal revenue bond for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic wine. The proprietor of the bonded wine cellar to which the wine is transferred becomes liable for the tax on wine withdrawn from customs custody under 26 U.S.C. 5364. Upon release of the wine from customs custody, the person bringing in the wine is relieved of the liability for the tax.

(c) *Transfer of beer from customs custody to brewery premises.* Bulk beer brought into the United States from the Virgin Islands may, under the provisions of this subpart, be withdrawn by the proprietor of a bonded brewery from customs custody and transferred in bulk containers to the bonded brewery premises, without payment of the internal revenue tax imposed on such beer by 26 U.S.C. 7652. Beer so withdrawn and transferred to bonded brewery premises may be withdrawn from a brewery's internal revenue bond for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic beer. The proprietor of the bonded brewery to which the beer is transferred becomes liable for the tax on beer withdrawn from customs custody under 26 U.S.C. 5418. Upon release of the beer from customs custody, the person bringing in the beer from the Virgin Islands is relieved of the liability for the tax.

■ 43. Section 26.301 is revised to read as follows:

§ 26.301 Record of shipment.

(a) *Preparation of records.* (1) The importer bringing distilled spirits, natural wines, or beer into the United States from the Virgin Islands under this subpart must prepare a transfer record according to § 26.273a. A separate transfer record must be prepared for each conveyance. The importer bringing in the distilled spirits, natural wines, or beer must maintain these records and any additional records necessary to substantiate the information provided under paragraph (b) of this section, in accordance with the record retention requirements of § 26.276, and must make them available upon request of the appropriate TTB officer or a customs officer. The importer must also provide a copy of the record to the recipient, if the recipient is not the importer.

(2) For distilled spirits, if the spirits are in packages, the person bringing the spirits into the United States must be in possession of a package gauge record for each bulk container, as provided in § 26.273b, at the time the distilled spirits are withdrawn from customs custody. The package gauge record may be prepared by the insular gauger at the time of their withdrawal from an insular bonded warehouse, as provided in § 26.204, or, if not prepared by the insular gauger, the package gauge record must be prepared by the insular consignor.

(b) *Reporting information for release from customs custody.* A person bringing distilled spirits, natural wines, or beer into the United States from the Virgin Islands under this subpart, if filing electronically, must file with U.S. Customs and Border Protection (CBP) the information specified in this section at the time of filing the entry or entry summary, as appropriate, along with any other information that is required by CBP to be filed with the entry or entry summary for purposes of administering the provisions of the Internal Revenue Code and Federal Alcohol Administration Act (FAA Act). Any information required by this section that is also required by, and filed with, CBP as part of the entry or entry summary for purposes of meeting CBP requirements will satisfy the requirements of this section. Regardless of the method of filing, the importer must retain all of the information required by this section and any supporting documentation and make it available for inspection by the appropriate TTB officer or a customs officer. The following information is required:

(1) The number of the importer's basic permit issued under the FAA Act and the regulations issued pursuant to the FAA Act (27 CFR part 1), if applicable, as required by 27 CFR 1.20, and the importer's employer identification number (EIN) associated with that permit;

(2) The name and address of the ultimate consignee;

(3) The TTB-issued IRC registry number of the ultimate consignee;

(4) The quantity of each distilled spirit, natural wine, or beer in the shipment (in proof liters or proof gallons, for distilled spirits); and

(5) Information identifying each product for Internal Revenue Code and/or FAA Act purposes.

(c) The importer bringing the distilled spirits, wines, or beer into the United States must maintain records to substantiate the information required under paragraph (b) of this section in accordance with the record retention requirements of § 26.276 and must provide them upon request of the appropriate TTB officer or a customs officer.

(Approved by the Office of Management and Budget under control number 1513–0064)

§ 26.302 [Removed and Reserved]

■ 44. Section 26.302 is removed and reserved.

§ 26.303 [Removed and Reserved]

■ 45. Section 26.303 is removed and reserved.

§ 26.314 [Amended]

■ 46. In § 26.314:

■ a. Redesignate paragraphs (b)(1) through (5) as (b)(1)(i) through (v);

■ b. Designate the text after the paragraph (b) heading as new paragraph (b)(1);

■ c. Designate the undesignated concluding paragraph as paragraph (b)(2) and remove the last sentence; and

■ d. Remove the Office of Management and Budget control number reference from the end of the section and add in its place the Office of Management and Budget control number reference "(Approved by the Office of Management and Budget under control number 1513–0020)".

■ 47. Section 26.316 is revised to read as follows:

§ 26.316 Bottles not constituting approved containers.

The appropriate TTB officer is authorized to disapprove any bottle, including a bottle of less than 200 mL capacity, for use as a liquor bottle which he determines to be deceptive. Disapproved bottles may not be brought into the United States from the U.S. Virgin Islands or from Puerto Rico.

■ 48. Section 26.318 is revised to read as follows:

§ 26.318 Liquor bottles not eligible to be brought into the United States.

(a) *General.* Except as provided in paragraph (b) of this section, filled liquor bottles that do not conform to the provisions of this subpart may not be brought into the United States from Puerto Rico or the Virgin Islands.

(b) *Exception.* Upon receipt of a letterhead application, the appropriate TTB officer may, in nonrecurring cases, authorize a person to bring into the United States liquor bottles that do not conform to the provisions of this part if that TTB officer determines that the nonconformance is due to an unintentional error; the nonconforming liquor bottle is determined not to be deceptive, as provided in § 26.316; and the entry of the nonconforming liquor bottle will not jeopardize the revenue. The person bringing such liquor bottles into the United States under such TTB authorization must maintain for not less than three years from the date that the liquor bottles were released from customs custody proof of that authorization and make it available upon request by the appropriate TTB officer or a customs officer.

(Approved by the Office of Management and Budget under control number 1513–0064)

§ 26.319 [Amended]

■ 49. Section 26.319 is amended by:

■ a. Removing the words "filed in triplicate"; and

■ b. Removing "§ 31.263" and adding in its place "§ 31.203".

§ 26.331 [Amended]

■ 50. Section 26.331 is amended by removing the words ", in triplicate," and by revising the Office of Management and Budget control number reference at the end of the section to read, "(Approved by the Office of Management and Budget under control number 1513–0064)".

PART 27—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

■ 51. The authority citation for part 27 is revised to read as follows:

Authority: 5 U.S.C. 552(a), 19 U.S.C. 81c, 1202; 26 U.S.C. 5001, 5007, 5008, 5010, 5041, 5051, 5054, 5061, 5121, 5122–5124, 5201, 5205, 5207, 5232, 5273, 5301, 5313, 5382, 5555, 6109, 6302, 7805.

■ 52. Section 27.11 is amended by:

■ a. Adding in alphabetical order definitions of "Bonded wine cellar" and "Brewery";

■ b. Revising the definitions of "Bulk container" and "Customs officer";

■ c. Removing the definition of "District director of customs"; and

■ d. Adding in alphabetical order definitions of "IRC registry number", "Natural wine", and "Proof liter".

The revisions and additions read as follows:

§ 27.11 Meaning of terms.

* * * * *

Bonded wine cellar. Premises established under part 24 of this chapter.

Brewery. The land and buildings described in the brewer's notice, TTB Form 5130.10, where beer is to be produced and packaged.

Bulk container. When used in the context of distilled spirits, the term "bulk container" means any container having a capacity larger than one wine gallon. When used in the context of wine, the term "bulk container" means any container having a capacity larger than 60 liters. When used in the context of beer, the term "bulk container" means any container having a capacity larger than one barrel of 31 gallons.

* * * * *

Customs officer. An officer of U.S. Customs and Border Protection (CBP) or any agent or other person authorized by law to perform the duties of such an officer.

* * * * *

IRC registry number. The number assigned by TTB to each distilled spirits plant, bonded wine cellar, taxpaid wine bottling house, bonded wine warehouse, or brewery upon approval of an application made pursuant to Internal Revenue Code of 1986 requirements (26 U.S.C. 5171, 5351–5353, or 5401).

* * * * *

Natural wine. The product of the juice or must of sound, ripe grapes or other sound, ripe fruit (including berries) made with any proper cellar treatment and containing not more than 21 percent by weight (21 degrees Brix dealcoholized wine) of total solids. For purposes of this definition, proper cellar treatment means a production practice or procedure authorized for natural wine by part 24 of this chapter, or, in the case of natural wine produced and imported subject to an international agreement or treaty, those practices and procedures acceptable to the United States under that agreement or treaty.

* * * * *

Proof liter. A liter of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity or the alcoholic equivalent thereof.

* * * * *

■ 53. Section 27.48 is revised to read as follows:

§ 27.48 Imported distilled spirits, wines, and beer.

(a) *Distilled spirits, wines, and beer imported subject to tax*—(1) *General.* Internal revenue taxes payable on imported distilled spirits, wines, and beer are collected, accounted for, and deposited as internal revenue collections by U.S. Customs and Border Protection (CBP) in accordance with CBP requirements. The tax must be paid on the basis of a return, and the customs form (including any electronic transmissions) by which the distilled spirits, wines, or beer are duty- and tax-paid to CBP will be treated as a return for purposes of this part.

(2) *Required information.* In the case of distilled spirits, wines, and beer imported into the United States subject to tax, the importer, if filing electronically, must file the information specified in this section with the entry or entry summary, as appropriate, along with any other information that is required by CBP to be filed with the entry or entry summary for purposes of determining and collecting the Federal excise tax and administering the provisions of the Internal Revenue Code and Federal Alcohol Administration Act (FAA Act). Any information required by this section that is also required by, and filed with, CBP as part of the entry or entry summary for purposes of meeting CBP requirements will satisfy the requirements of this section. For all distilled spirits, wines, and beer imported under this paragraph, the following information is required:

(i) The number of the importer's basic permit issued under the FAA Act and the regulations issued pursuant to the FAA Act (27 CFR part 1), if applicable, as required by 27 CFR 1.20 and 1.58, and the importer's name, address, and employer identification number (EIN) associated with that permit;

(ii) The TTB-assigned number of the valid certificate of label approval (COLA), if applicable, as required by 27 CFR 4.40 in the case of wine, 27 CFR 5.51 in the case of distilled spirits, and 27 CFR 7.31 in the case of malt beverages;

(iii) The name and address of the ultimate consignee;

(iv) The quantity of each product (for distilled spirits, in proof liters or proof gallons; for beer and wine, in gallons or liters); and

(v) Information identifying each product for Internal Revenue Code and/or FAA Act purposes, as applicable.

(b) *Distilled spirits, natural wines, and beer transferred without payment of tax to internal revenue bond.* Distilled spirits, natural wine (as defined in § 27.11) and beer in bulk containers may be released from customs custody without payment of tax under the provisions of subpart L of this part and thereafter removed subject to tax from distilled spirits plants, bonded wine cellars, and breweries, respectively. The tax will be collected and paid under the provisions of part 19, 24 or 25 of this chapter, respectively.

(c) *Entry for warehousing*—(1) *General.* Except as provided in paragraph (c)(2) of this section, in the case of an entry for warehousing (that is, products transferred directly to a customs bonded warehouse or foreign trade zone), the last day for payment of the tax shall not be later than the 14th day after the last day of the semimonthly period during which the products are removed from the first such warehouse, even if the products are removed from that customs bonded warehouse or foreign trade zone for transfer to another customs bonded warehouse or foreign trade zone.

(2) *Entry for warehousing of products destined for export.* Paragraph (c)(1) of this section does not apply to any distilled spirits, wines, or beer entered for warehousing and then removed for transfer to another custom bonded warehouse or foreign trade zone that is shown to the satisfaction of the Secretary to be destined for export.

(d) *Records.* Regardless of the method of filing, the importer must maintain as a record the information required by this section, any information provided to CBP to meet CBP requirements, and any supporting documentation. These records must be maintained in accordance with the record retention requirements of § 27.137, and the records must be made available upon request of the appropriate TTB officer or a customs officer.

(Approved by the Office of Management and Budget under control number 1513–0064)

(26 U.S.C. 5001, 5054, 5061, 5232, 5364, 5418)

■ 54. Section 27.55 and the undesignated center heading preceding it are revised to read as follows:

Federal Alcohol Administration Act Requirements for Importation of Distilled Spirits, Wines, and Malt Beverages

§ 27.55 Requirements of the Federal Alcohol Administration Act.

(a) *General.* The Federal Alcohol Administration Act (FAA Act) and the regulations issued under the FAA Act (parts 1, 4, 5, and 7 of this chapter) provide that any person, except an agency of a State or political subdivision thereof or any officer or employee of any such agency, who imports distilled spirits, wines, or malt beverages for nonindustrial use must comply with certain permit and labeling requirements as described in this section. See 27 CFR 1.10 for the definitions of distilled spirits, wine, and malt beverages under the FAA Act. Tourists importing distilled spirits, wines, or malt beverages into the United States for personal or other noncommercial use are not subject to the provisions of the FAA Act or regulations issued pursuant to the FAA Act (parts 1, 4, 5, and 7 of this chapter).

(b) *FAA Act basic permit.* Any person, except an agency of a State or a political subdivision thereof or any officer or employee of any such agency, who intends to engage in the business of importing distilled spirits, wines, or malt beverages into the United States must, prior to importing such products into the United States, obtain an importer's basic permit, in accordance with the requirements of the FAA Act and regulations issued pursuant to the FAA Act, and must file with U.S. Customs and Border Protection (CBP) the number associated with this permit with the filing of the customs entry when filing electronically as required under 27 CFR 1.58. Also, as required under § 1.58 of this chapter, if the importer is not filing electronically, the importer must have a copy of the FAA Act basic permit and make it available upon request of the appropriate TTB officer or a customs officer.

(c) *Certificate of label approval.* Any person and any agency of a State or political subdivision thereof or any officer or employee of such agency, removing for commercial purposes containers of distilled spirits, wines, or malt beverages from customs custody for consumption, when filing electronically, must provide the TTB-assigned identification number of the valid certificate of label approval (COLA) for the distilled spirits, wines, or malt beverages with the filing of the customs entry in accordance with the requirements of 27 CFR 4.40 in the case of wine, 27 CFR 5.51 in the case of distilled spirits, or 27 CFR 7.31 in the case of malt beverages. Also, as required under 27 CFR 4.40, 5.51, and 7.31, if the importer is not filing electronically, the importer must provide a copy of the valid COLA to CBP at time of entry.

(d) *Foreign certificates.* Every person and any agency of a State or political subdivision thereof or any officer or employee of such agency, importing for commercial purposes into the United States for consumption containers of distilled spirits or wines that require a certificate under 27 CFR 4.45 in the case of wine or 27 CFR 5.52 in the case of distilled spirits must be in possession of the certificate (and accompanying invoice, if applicable) at the time of release from customs custody.

(Sec. 3, 49 Stat. 978, as amended; 27 U.S.C. 203)

■ 55. Section 27.76 is amended by:

■ a. In paragraph (a), by removing "TTB Form 5530.5 (1678)" and adding in its place "TTB Form 5154.1 (formerly TTB Form 5530.5 and ATF Form 1678)";

■ b. Revising paragraph (d);

■ c. Adding paragraph (e); and

■ d. Revising the OMB control number reference at the end of the section.

The revision and additions read as follows:

§ 27.76 Approval and certification of wine and flavors content.

* * * * *

(d) At the time of filing the entry summary, the importer must have the certificate in its possession and make it available upon request of the appropriate TTB officer or a customs officer. For distilled spirits withdrawn from customs custody under the provisions of subpart L of this part, the importer must furnish a copy of the certificate to the proprietor of the distilled spirits plant to which the distilled spirits are transferred.

(e) The importer must maintain a copy of the certificate in accordance with the record retention requirements of § 27.137 and must make it available upon request of the appropriate TTB officer or a customs officer.

(Approved by the Office of Management and Budget under control number 1513–0064)

* * * * *

■ 56. Section 27.77 is amended by:

■ a. Revising the second sentence of paragraph (d);

■ b. Adding paragraphs (e) and (f); and

■ c. Revising the OMB control number reference at the end of the section.

The revisions and additions read as follows:

§ 27.77 Standard effective tax rate.

* * * * *

(d) * * * At the time of filing the entry summary, the importer must have the approval in its possession and make it available upon request of the appropriate TTB officer or a customs officer. * * *.

(e) The importer must maintain a copy of the approval in accordance with the record retention requirements of § 27.137 and must make it available upon request of the appropriate TTB officer.

(f) For distilled spirits withdrawn from customs custody under the provisions of subpart L of this part, the importer must furnish a copy of the approval to the proprietor of the distilled spirits plant to which the distilled spirits are transferred.

(Approved by the Office of Management and Budget under control number 1513–0064)

§ 27.120 [AMENDED]

■ 57. In § 27.120, remove "Regulation 3 (27 CFR part 3)" and add "subpart E of part 1 of this chapter" in its place.

■ 58. In § 27.137, the first sentence is revised and an Office of Management and Budget control number reference is added at the end of the section to read as follows:

§ 27.137 Retention.

All records required by this part, documents or copies of documents supporting these records (including data filed with U.S. Customs and Border Protection (CBP) pursuant to CBP requirements), and file copies of reports required by this part, must be retained for not less than three years following each withdrawal from customs custody, and during this period must be made available upon request of the appropriate TTB officer or a customs officer.

* * * * *

(Approved by the Office of Management and Budget under control number 1513–0064 and 1513–0088)

■ 59. Section 27.138 is revised to read as follows:

§ 27.138 Transfer record.

(a) *Distilled spirits.* The transfer record prescribed in § 27.172 must identify the importer and show the following:

(1) The date prepared;

(2) Serial number of the transfer record, beginning with "1" each January 1;

(3) The name, address, and TTB-issued IRC registry number (distilled spirits plant number) of the proprietor receiving the spirits from customs custody;

(4) The country of origin of the distilled spirits;

(5) The name of the foreign producer;

(6) The kind of spirits;

(7) The age, in years, months and days of the spirits;

(8) The proof of the spirits;

(9) The type and number of containers;

(10) The proof gallons of spirits in the shipment; and

(11) The customs entry number and the amount of duty paid.

(b) *Wine.* The transfer record prescribed in § 27.172 must identify the importer and show the following:

(1) The date prepared;

(2) The name and address of the bonded wine cellar receiving the wine from customs custody;

(3) The TTB-issued IRC registry number of the bonded wine cellar receiving the wine from customs custody;

(4) The number of containers transferred and quantity of wine in each container;

(5) The country of origin of the wine;

(6) The customs entry number and amount of duty paid;

(7) The kind of wine; and

(8) The foreign producer.

(c) *Beer.* The transfer record prescribed in § 27.172 must identify the importer and show the following:

(1) The date prepared;

(2) The name and address of the brewery receiving the beer from customs custody;

(3) The TTB-issued IRC registry number of the brewery receiving the beer from customs custody;

(4) The number of containers transferred and quantity of beer in each container;

(5) The country of origin of the beer;

(6) The customs entry number and the amount of duty paid;

(7) The kind of beer; and

(8) The foreign brewer.

(Approved by the Office of Management and Budget under control number 1513–0064)

■ 60. Section 27.140 is amended by:
■ a. Removing from paragraph (a) the definitions of "Importer" and "Natural wine";
■ b. Revising in paragraph (a) the definition of "Proper cellar treatment";
■ c. Revising the introductory text of paragraph (b)(1), and
■ d. Adding an Office of Management and Budget control number reference at the end of the section.

The revisions and addition read as follows:

§ 27.140 Certification requirements for wine.

(a) * * *

Proper cellar treatment means a production practice or procedure authorized for natural wine by part 24 of this chapter, or, in the case of natural wine produced and imported subject to an international agreement or treaty, those practices and procedures acceptable to the United States under that agreement or treaty.

(b) * * * (1) *General.* Except as otherwise provided in paragraph (b)(2) of this section, an importer of natural wine must have an original or copy of a certification from the producing country stating that the practices and procedures used to produce the imported wine constitute proper cellar treatment. The importer of bottled wine must be in possession of the certificate at the time of filing the entry with CBP, and the bottler of bulk wine must be in possession of the certificate at the time the wine is withdrawn from the premises where bottled. The importer or bottler, as appropriate, must provide the certificate upon request by the appropriate TTB officer or a customs officer. This requirement may be satisfied by providing the original certification, or a photocopy or electronic copy of the certification. The appropriate TTB officer or a customs officer may request, and the importer or bottler must provide, such information for a period of three years from the date that the product covered by the certificate was released from customs custody or removed from the bottler's premises, as applicable. The certification:

* * * * *

(Approved by the Office of Management and Budget under control numbers 1513–0064 and 1513–0119)

■ 61. The heading of subpart L is revised to read as follows:

Subpart L—Transfer of Distilled Spirits, Natural Wines, and Beer Without Payment of Tax, From Customs Custody to Internal Revenue Bond

■ 62. Section 27.171 is amended by:
■ a. Removing "(a)" and "(b)" from the second sentence;
■ b. Designating the existing text as paragraph (a);
■ c. Adding a heading to paragraph (a);
■ d. Adding paragraphs (b) and (c); and
■ e. Revising the authority citation at the end of the section.

The additions and revision read as follows:

§ 27.171 General provisions.

(a) *Transfer of bulk distilled spirits from customs custody to bonded premises of a distilled spirits plant.*

* * *

(b) *Transfer of bulk natural wine from customs custody to a bonded wine cellar.* Imported "natural wine," as defined in § 27.11, may, under the provisions of this subpart, be withdrawn in bulk by the proprietor of a bonded wine cellar from customs custody and transferred in bulk containers to the bonded wine cellar without payment of the internal revenue tax imposed on wine by 26 U.S.C. 5041. Imported wine so withdrawn and transferred may be withdrawn from a bonded wine cellar's internal revenue bond for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic wine. The proprietor of the bonded wine premises to which imported wine is transferred becomes liable for the tax on wine withdrawn from customs custody under 26 U.S.C. 5364. Upon release of the wine from customs custody, the importer is relieved of the liability for the tax.

(c) *Transfer of beer from customs custody to a brewery.* Imported bulk beer may, under the provisions of this subpart, be withdrawn by the proprietor of bonded brewery from customs custody and transferred in bulk containers to bonded brewery premises, without payment of the internal revenue tax imposed on beer by 26 U.S.C. 5051. Imported beer so withdrawn and transferred to bonded brewery premises may be withdrawn from a brewery's internal revenue bond for any purpose authorized by 26 U.S.C. chapter 51, in the same manner as domestic beer. The proprietor operating the bonded brewery premises to which imported beer is transferred becomes liable for the tax on beer withdrawn from customs custody under 26 U.S.C. 5418. Upon release of the beer from customs custody, the importer is relieved of the liability for the tax.

(26 U.S.C. 5232, 5364, and 5418)

■ 63. Section 27.172 is revised to read as follows:

§ 27.172 Preparation of records and reporting of information for release of distilled spirits, natural wines, and beer without payment of tax.

(a) *Preparation of records.* (1) The person importing distilled spirits, natural wines, or beer under this subpart must prepare a transfer record according to § 27.138. A separate transfer record must be prepared for each conveyance. The importer must maintain these records and any records to substantiate the information required under paragraph (b) of this section, in accordance with the record retention requirements of § 27.137, and must make them available upon request of the appropriate TTB officer or a customs officer. The importer must also provide a copy of the record to the recipient, if the recipient is not the importer.

(2) For distilled spirits, if the spirits are in packages, the importer must prepare a package gauge record according to § 27.139 and maintain it with the transfer record.

(b) *Reporting information for release from customs custody.* In the case of distilled spirits, natural wines, and beer imported into the United States without payment of tax under this subpart, the importer, if filing electronically, must file with U.S. Customs and Border Protection (CBP) the information specified in this section at the time of filing the entry or entry summary, as appropriate, along with any other information that is required by CBP to be filed with the entry or entry summary for purposes of administering the provisions of the Internal Revenue Code and Federal Alcohol Administration Act (FAA Act). Any information required by this section that is also required by, and filed with, CBP as part of the entry or entry summary for purposes of meeting CBP requirements will satisfy the requirements of this section. Regardless of the method of filing, the importer must retain as a record the information required by this section, any information provided to CBP to meet CBP requirements, and any supporting documentation and make such records available for inspection by the appropriate TTB officer or a customs officer. The following information is required:

(1) The number of the importer's basic permit issued under the FAA Act and the regulations issued pursuant to the FAA Act (27 CFR part 1), if applicable, as required by 27 CFR 1.20, and the importer's employer identification number (EIN) associated with that permit;

(2) The name and address of the ultimate consignee;

(3) The TTB-issued IRC registry number of the ultimate consignee;

(4) The quantity of each distilled spirit, wine, or beer in the shipment (in proof liters or proof gallons, for distilled spirits); and

(5) Information identifying each product for Internal Revenue Code and/or FAA Act purposes.

(Approved by the Office of Management and Budget under control number 1513–0064)

§ 27.173 [Removed and Reserved]

■ 64. Section 27.173 is removed and reserved.

■ 65. In § 27.175, the section heading is revised to read as follows:

§ 27.175 Receipt of distilled spirits by consignee.

* * * * *

■ 66. Section 27.183 is revised to read as follows:

§ 27.183 Use of Government agency permit, Form 5150.33.

Each Government agency must retain the original of its permit, Form 5150.33, on file. In the case of an agency holding a single permit for use of its sub-agencies, an attachment to the permit must list all locations authorized to withdraw spirits free of tax from customs custody. When withdrawing spirits free of tax from a port of entry, the agency, if filing electronically, must file its TTB-issued permit number along with the filing of any other information required by U.S. Customs and Border Protection to be filed with the customs entry. If the agency is not filing electronically, rather than file the TTB-issued permit number, the agency must make a copy of the permit available to the customs officer upon request.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1375, as amended (26 U.S.C. 5313))

■ 67. Section 27.184 is revised to read as follows:

§ 27.184 Information required for entry.

Government agencies importing tax-free spirits under this subpart must file, along with filing the customs entry or entry summary, the total quantity of the spirits to be entered and, if filing electronically, the permit number as required under § 27.183.

§ 27.185 [Removed]

■ 68. Section 27.185 is removed.

§ 27.204 [Amended]

■ 69. Section 27.204 is amended by:

■ a. Redesignating paragraphs (b)(1) through (5) as (b)(1)(i) through (v);

■ b. Designate the text after the paragraph (b) heading as new paragraph (b)(1);

■ c. Designating the undesignated concluding paragraph as paragraph (b)(2) and removing the last sentence; and

■ d. Adding an Office of Management and Budget control number reference to read "(Approved by the Office of Management and Budget under control number 1513–0020)" at the end of the section.

■ 70. Section 27.206 is amended by revising the last sentence to read as follows:

§ 27.206 Bottles not constituting approved containers.

* * * Disapproved bottles may not be imported into the United States.

■ 71. Section 27.208 is revised to read as follows:

§ 27.208 Liquor bottles not eligible for release from customs custody.

Upon receipt of a letterhead application, the appropriate TTB officer may, in nonrecurring cases, authorize a person to bring into the United States liquor bottles that do not conform to the provisions of this part if that TTB officer determines that the nonconformance is due to an unintentional error; the nonconforming liquor bottle is determined not to be deceptive, as provided in § 27.206; and the entry of the nonconforming liquor bottle will not jeopardize the revenue. The person bringing such liquor bottles into the United States under TTB authorization must maintain proof of such authorization for not less than three years from the date that the liquor bottles were released from customs custody and make it available upon request by the appropriate TTB officer or a customs officer.

(Approved by the Office of Management and Budget under control number 1513–0064)

§ 27.209 [Amended]

■ 72. Section 27.209 is amended by removing the words "filed in triplicate"; by removing "§ 31.263" and adding in its place "§ 31.203" and by removing the Office of Management and Budget control number reference at the end of the section and adding in its place the Office of Management and Budget control number reference "(Approved by the Office of Management and Budget under control number 1513–0064)".

§ 27.221 [Amended]

■ 73. Section 27.221 is amended in the introductory text of paragraph (a) by removing the words ", in triplicate," and by removing the Office of Management and Budget control number reference at the end of the section and adding in its place the Office of Management and Budget control number reference "(Approved by the Office of Management and Budget under control number 1513–0064)".

PART 41—IMPORTATION OF TOBACCO PRODUCTS, CIGARETTE PAPERS AND TUBES, AND PROCESSED TOBACCO

■ 74. The authority citation for part 41 is revised to read as follows:

Authority: 26 U.S.C. 5701–5705, 5708, 5712, 5713, 5721–5723, 5741, 5754, 5761–5763, 6301, 6109, 6302, 6313, 6402, 6404, 7101, 7212, 7342, 7606, 7651, 7652, 7805; 31 U.S.C. 9301, 9303, 9304, 9306.

■ 75. Section 41.11 is amended by revising the definition of "Customs officer" to read as follows:

§ 41.11 Meaning of terms.

* * * * *

Customs officer. An officer of U.S. Customs and Border Protection (CBP) or any agent or other person authorized by law to perform the duties of such an officer.

* * * * *

■ 76. Section 41.81 is amended by revising paragraphs (b) and (c) and adding an Office of Management and Budget control number reference at the end of the section to read as follows:

§ 41.81 Taxpayment.

* * * * *

(b) *Method of payment.* Except for articles imported or brought into the United States as provided in §§ 41.85 and 41.85a, the internal revenue tax must be determined before the tobacco products, cigarette papers, or cigarette tubes are released from customs custody. The tax must be paid on the basis of a return, and the customs form (including any electronic transmissions) by which the tobacco products, cigarette papers, or cigarette tubes are duty- and tax-paid to CBP will be treated as a return for purposes of this part.

(c) *Required information.* In the case of tobacco products and cigarette papers and tubes imported into the United States for consumption, the importer, if filing electronically, must file with U.S. Customs and Border Protection (CBP) the information specified in paragraphs (c)(1) through (7) of this section at the time of filing the entry or entry summary, as appropriate, along with any other information that is required by CBP to be filed with the entry or entry summary for purposes of determining and collecting the Federal excise tax and administering the provisions of the Internal Revenue Code. Any information required under paragraphs (c)(1) through (7) of this section that is required by, and filed with, CBP as part of the entry or entry summary for purposes of meeting CBP requirements will also satisfy the requirements of this section. Regardless of the method of filing, the importer must retain as a record the information required by this section, any information provided to CBP to meet CBP requirements, and any supporting documentation and make such records available upon request by the appropriate TTB officer or a customs officer.

(1) *All tobacco products.* For all tobacco products, the following information is required:

(i) The number of the tobacco product importer permit that is issued under subpart K of this part;

(ii) The employer identification number (EIN) assigned to the importer by the Internal Revenue Service and provided by the importer on its permit application to TTB made on TTB Form 5230.4;

(iii) The name and address of the ultimate consignee;

(iv) The information specific to each tobacco product set forth in paragraphs (c)(2) through (6) of this section.

(2) *Cigarettes.* For cigarettes, in addition to the information required in paragraph (c)(1) of this section, the importer must provide a description of the product for Internal Revenue Code purposes, including "cigarettes" and either "small" (or "class A") or "large" (or "class B") and must also provide the number of cigarettes.

(3) *Cigars.* For cigars, in addition to the information required in paragraph (c)(1) of this section, the importer must provide:

(i) The number of cigars imported under each Harmonized Tariff Schedule of the United States (HTSUS) code number;

(ii) The description of the cigars for Internal Revenue Code purposes, including "cigars" and either "large" or "small";

(iii) For large cigars with a sale price of $763.222 or less per 1,000, the number and sale price (the price for which sold by the importer) per 1,000 of such cigars; and

(iv) For large cigars with a sale price of more than $763.222 per 1,000, the number of such cigars.

(4) *Smokeless tobacco.* For smokeless tobacco, in addition to the information required in paragraph (c)(1) of this section, the importer must provide a description of the product for Internal Revenue Code purposes, as either "chewing tobacco" or "snuff" and will state the number of pounds and ounces or kilograms and grams of the product.

(5) *Pipe tobacco.* For pipe tobacco, in addition to the information required in paragraph (c)(1) of this section, the importer must provide a description of the product under the Internal Revenue Code, as "pipe tobacco," and will also state the number of pounds and ounces or kilograms and grams of the product.

(6) *Roll-your-own tobacco.* For roll-your-own tobacco, in addition to the information required in paragraph (c)(1) of this section, the importer must provide a description of the product for Internal Revenue Code purposes, as "roll-your-own tobacco," "cigarette tobacco," "cigarette wrapper," "cigar tobacco," or "cigar wrapper." The importer must also state the number of pounds and ounces or kilograms and grams of the product.

(7) *Cigarette papers and cigarette tubes.* For cigarette papers and cigarette tubes, the importer must provide:

(i) The classification of the product for Internal Revenue Code purposes, including either "cigarette papers" or "cigarette tubes" and an indication of whether the length of the papers or tubes is over 6½ inches;

(ii) The employer identification number (EIN) assigned to the importer by the Internal Revenue Service;

(iii) The name and address of the ultimate consignee; and

(iv) The total taxable quantity of each.

* * * * *

(Approved by the Office of Management and Budget under control number 1513–0064)

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■ 77. Section 41.84 is added to read as follows:

§ 41.84 Entry for warehousing.

(a) *General.* Except as provided in paragraph (b) of this section, in the case of an entry for warehousing (that is, tobacco products, cigarette papers, or cigarette tubes transferred directly to a customs bonded warehouse or foreign trade zone), the last day for payment of the tax shall not be later than the 14th day after the last day of the semimonthly period during which the products are removed from the first such warehouse, even if the tobacco products, cigarette papers, or cigarette tubes are removed from that customs bonded warehouse or foreign trade zone for transfer to another customs bonded warehouse or foreign trade zone.

(b) *Entry for warehousing of products destined for export.* Paragraph (a) of this section does not apply to tobacco products, cigarette papers, or cigarette tubes entered for warehousing and then removed for transfer to another custom bonded warehouse or foreign trade zone that are shown to the satisfaction of the Secretary to be destined for export.

(26 U.S.C. 5703(b)(2)(B)(ii), (iii), and (iv))

■ 78. Section 41.86 is revised to read as follows:

§ 41.86 Entry process for releases without payment of tax.

(a)(1) *General.* Except as provided in paragraph (c) of this section, in order for tobacco products or cigarette papers or tubes to be released from customs custody without payment of tax under internal revenue bond, as provided in 26 U.S.C. 5704(c) or (d), the information required by this paragraph must be filed electronically with U.S. Customs and Border Protection (CBP). The information must be filed with CBP at the time of filing the entry or entry summary, as appropriate, and it must be filed along with any other information that is required by CBP for purposes of determining and collecting the Federal excise tax and administering the provisions of the Internal Revenue Code. Any information required under paragraph (a)(2) of this section that is submitted to CBP as part of the entry or entry summary for purposes of meeting CBP requirements will also satisfy the requirements of this section. Regardless of the method of filing, the importer must retain as a record the information required by this section, any information provided to CBP for CBP purposes, and any supporting documentation and such records must be available for inspection upon request by the appropriate TTB officer or a customs officer.

(2) *Information required.* The manufacturer of tobacco products or cigarette papers or tubes or export warehouse proprietor who wishes to obtain the release of tobacco products or cigarette papers or tubes as described in paragraph (a)(1) of this section must provide the following information, as applicable:

(i) The number of the permit issued under 27 CFR part 40 to the manufacturer of tobacco products or export warehouse proprietor, or the TTB-assigned number of the manufacturer of cigarette papers or tubes, to whom the products are shipped or consigned;

(ii) The employer identification number (EIN), assigned by the Internal Revenue Service, of the manufacturer of tobacco products, the manufacturer of cigarette papers or tubes, or the export warehouse proprietor to whom the products are shipped or consigned;

(iii) The name and address of the ultimate consignee, consistent with the name and address on the permit issued under part 40 of this chapter;

(iv) For tobacco products, the number of the permit, issued under subpart K of this part, of the importer;

(v) For tobacco products, the employer identification number (EIN) assigned to the importer by the Internal Revenue Service and provided to TTB by the importer on its permit application to TTB on TTB Form 5230.4;

(vi) A description of the product consistent with the tax classification of the product under the Internal Revenue Code as described in § 41.81 (for example, "large cigars"); and

(vii) The quantity of the product for Federal excise tax purposes, by sticks or by pounds and ounces (or kilograms and grams), as applicable.

(b) *Releases without payment of tax*—(1) *Tobacco products or cigarette papers or tubes put up in packages.* Tobacco products or cigarette papers or tubes put up in packages, as defined at § 41.11, may be released without payment of tax only for delivery to the proprietor of an export warehouse (as provided in 26 U.S.C. 5704(c)) or, if classified under chapter 98, subchapter I of the Harmonized Tariff Schedule of the United States (relating to duty on certain articles exported and returned), for delivery to the original manufacturer of such tobacco products or cigarette papers or tubes or to the proprietor of an export warehouse authorized by such manufacturer to receive them (as provided in 26 U.S.C. 5704(d)). If the information required in paragraph (a)(2)(i) through (iii) of this section is not filed with the entry or entry summary, as appropriate, or, if the information required in paragraph (c) of this section is not made available to CBP upon request, the tobacco products, cigarette papers, or cigarette tubes are not eligible for release from customs custody for consumption, and no person may remove such products from customs custody without payment of tax and without meeting requirements related to the release of tobacco products, cigarette papers, or cigarette tubes from customs custody subject to tax.

(2) *Tobacco products or cigarette papers or tubes not put up in packages.* Tobacco products or cigarette papers or tubes not put up in packages, as defined at § 41.11, may not be released from customs custody subject to tax, and no person may obtain release of such products from customs custody. Tobacco products or cigarette papers or tubes not put up on packages may be released from customs custody without payment of tax for delivery to the proprietor of an export warehouse, or to a manufacturer of tobacco products or cigarette papers or tubes, as provided in 26 U.S.C. 5704(c). As a result, if the information required in paragraphs (a)(2)(i) through (iii) of this section is not filed with the entry or entry summary, as appropriate, or, if the information required in paragraph (c) of this section is not made available to CBP upon request, tobacco products or cigarette papers or tubes not put up in packages are not eligible for release from customs custody for consumption, and no person may remove such product from customs custody.

(c) *Filing on paper.* A manufacturer or export warehouse proprietor who wants to obtain the release of tobacco products or cigarette papers and tubes from customs custody without payment of tax under its internal revenue bond, and who does not file electronically, must prepare a notice of release on TTB F 5200.11 and submit the form to the appropriate TTB officer in accordance with the instructions on the form. The appropriate TTB officer will certify on the TTB F 5200.11 that the manufacturer or export warehouse proprietor has TTB authorization to receive the products. No one filing on paper may obtain release of the products under this section until they have received the TTB F 5200.11 certified by the appropriate TTB officer. The manufacturer or export warehouse must have possession of the TTB F 5200.11, bearing TTB certification, at the time the products are released from customs custody and must make the form available to a customs officer upon request at such time. After release of the products, the TTB F 5200.11 must be retained by the manufacturer or export warehouse proprietor and made available to the appropriate TTB officer or a customs officer upon request.

(Approved by the Office of Management and Budget under control numbers 1513–0025 and 1513–0064)

■ 79. Section 41.204 is revised to read as follows:

§ 41.204 Records and reports in general.

Every importer of tobacco products or cigarette papers or tubes must keep records and, when required by this part, submit reports of all tobacco products released from customs custody under the importer's TTB permit, including information on the release from customs custody, the receipt, and the disposition.

(Approved by the Office of Management and Budget under control numbers 1513–0064 and 1513–0106)

■ 80. Section 41.265 is added under the undesignated center heading Operations of Importers of Processed Tobacco to read as follows:

§ 41.265 Processed tobacco importation process.

(a) *General.* In the case of processed tobacco imported into the United States, the importer, if filing electronically, must file with U.S. Customs and Border Protection (CBP) the information specified in paragraph (b) of this section at the time of filing the entry or entry summary, as appropriate, along with any other information that is required by CBP to be filed as part of the entry or entry summary for CBP purposes. If the information required by this section is required by, and filed with, CBP for purposes of meeting CBP requirements, such filing will also satisfy the requirements of this section. Regardless of the method of filing, the importer must retain as a record the information required by this section, any information required as part of the entry or entry summary by CBP for CBP purposes, and any supporting documentation, and must make such records available upon request by the appropriate TTB officer or a customs officer.

(b) *Information required.* The following information is required, as described in paragraph (a) of this section:

(1) The number of the importer's permit issued under subpart K or M of this part;

(2) The employer identification number (EIN) assigned to the importer by the Internal Revenue Service and provided to TTB by the importer on its permit application to TTB on TTB Form 5230.4;

(3) The name and address of the ultimate consignee;

(4) A description of the product as "processed tobacco" for Internal Revenue Code purposes; and

(5) The quantity of processed tobacco.

(Approved by the Office of Management and Budget under control number 1513–0064)

Signed: January 12, 2016.

John J. Manfreda,

Administrator.

Approved: March 30, 2016.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade and Tariff Policy).

[FR Doc. 2016–14359 Filed 6–20–16; 8:45 am]

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Part III

Department of Homeland Security

Coast Guard

46 CFR Part 28
Commercial Fishing Vessels—Implementation of 2010 and 2012 Legislation; Proposed Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 28

[Docket No. USCG–2012–0025]

RIN 1625–AB85

Commercial Fishing Vessels—Implementation of 2010 and 2012 Legislation

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to align its commercial fishing industry vessel regulations with the mandatory provisions of 2010 and 2012 legislation passed by Congress that took effect upon enactment. The alignments would change the applicability of current regulations, and add new requirements for safety equipment, vessel examinations, vessel safety standards, the documentation of maintenance, and the termination of unsafe operations. This rule only proposes to implement these legislative mandates, would exercise no Coast Guard regulatory discretion, and would promote the Coast Guard's maritime safety mission. It does not reflect any provision of the Coast Guard Authorization Act of 2015, but the preamble to this document discusses its likely impact where appropriate. That Act will be the subject of future Coast Guard regulatory action.

DATES: Comments and related material must be submitted to the online docket via *http://www.regulations.gov,* or reach the Docket Management Facility, on or before September 19, 2016. Comments sent to the Office of Management and Budget (OMB) on the proposed collection of information must reach OMB on or before September 19, 2016.

ADDRESSES: You may submit comments identified by docket number USCG–2012–0025 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

Collection of information. You must submit comments on the collection of information discussed in section VII.D of this preamble both to the Coast Guard's docket and to the Office of Information and Regulatory Affairs (OIRA) in the White House Office of Management and Budget. OIRA submissions can use one of the listed methods.

- *Email (preferred)—oira_submission@omb.eop.gov* (include the docket number and "Attention: Desk Officer for Coast Guard, DHS" in the subject line of the email).
- *Fax*—202–395–6566.
- *Mail*—Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

Viewing material proposed for incorporation by reference. Make arrangements to view this material by calling the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Jack Kemerer, Chief, Fishing Vessels Division (CG–CVC–3), Office of Commercial Vessel Compliance (CG–CVC), Coast Guard; telephone 202–372–1249, email *Jack.A.Kemerer@uscg.mil.*

SUPPLEMENTARY INFORMATION:

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I. Public Participation and Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

We are not planning to hold a public meeting but will consider doing so if public comments indicate a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

II. Abbreviations

APA	Administrative Procedure Act
CFV	Commercial Fishing Industry Vessels
CGAA	Coast Guard Authorization Act of 2010
CGMTA	Coast Guard and Maritime Transportation Act of 2012
DHS	Department of Homeland Security
EPIRBs	Emergency Position Indicating Radio Beacons
FR	Federal Register
GPS	Global Positioning System
MISLE	Marine Information for Safety and Law Enforcement
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Association
OCMI	Officer in Charge, Marine Inspection
PFD	Personal Flotation Device
Pub. L.	Public Law
U.S.C.	United States Code

III. Executive Summary

This rule proposes to implement statutory requirements enacted by the Coast Guard Authorization Act of 2010 (CGAA)[1] and the Coast Guard and Maritime Transportation Act of 2012 (CGMTA).[2] Both Acts contain provisions affecting those commercial fishing industry vessels (CFVs) that do not require Coast Guard inspection and certification. With respect to the CGAA, Congress intended the new requirements to help improve the safety of an industry that experiences vessel losses and crew deaths.[3]

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[1] Pub. L. 111–281, 124 Stat. 2905, Title VI.

[2] Pub. L. 112–213, 126 Stat. 1540.

This proposed rule is authorized by the CGAA and the CGMTA, and by rulemaking authority delegated to the Coast Guard by the Secretary of Homeland Security.[4] The need for this rule exists because current Coast Guard CFV regulations are based on statutes that the CGAA and CGMTA changed significantly. If the regulations do not align with the CGAA and CGMTA, there is no way for commercial fishermen or the general public to clearly understand what they must do to comply with the CGAA and CGMTA requirements. Without these proposed changes, Coast Guard regulations would be inconsistent with the CGAA and CGMTA, leading to confusion and uncertainty, particularly with regard to the Coast Guard's enforcement authority.

The CGAA and CGMTA mandated action with respect to the following topics:

- Vessel parity;
- Substitution of baseline for Boundary Line criteria;
- Survival craft;
- Records;
- Vessel examinations;
- Training;
- Construction standards for smaller vessels;
- Load lines;
- Classing of vessels;
- Termination of unsafe operations; and
- Miscellaneous.

This rule only proposes to take regulatory action on those topics listed above where the statutory mandate took effect upon enactment of the CGAA in October 2010 and the CGMTA in December 2012, and can be incorporated in Coast Guard CFV regulations without the exercise of any Coast Guard discretion. Other CGAA and CGMTA provisions relating to CFVs with later effective dates and those that require exercise of Coast Guard discretion may be the subject of future Coast Guard rulemakings. The proposed rule does not reflect any provision of the Coast Guard Authorization Act of 2015. That Act will be the subject of future Coast Guard regulatory action.

Vessel parity. Some statutory provisions with respect to special equipment requirements apply only to the subset of CFVs that operate beyond U.S. Boundary Lines (which, as subsequently discussed, the CGAA changed to beyond 3 nautical miles from the U.S. territorial sea baseline), or with more than 16 persons onboard, or that are Aleutian Trade fish tender vessels. These CFVs are subject to special Coast Guard regulatory requirements set forth in 46 CFR part 28, subpart C, and are referred to throughout this preamble as "subpart C CFVs". Until enactment of the CGAA, only Federally documented CFVs were required to comply with the special equipment requirements;[5] the (typically) smaller CFVs that require only State registration were excluded. The CGAA required uniform safety standards and equipment requirements for all CFVs (whether documented or undocumented) that operate beyond 3 nautical miles of the baseline of the territorial sea or the coastline of the Great Lakes. This rule proposes to implement the CGAA by revising subpart C to reflect that change in applicability.

Some existing subpart C regulatory requirements are the result of prior Coast Guard discretionary determinations that the requirement is necessary for the safety of the *documented* CFVs to which subpart C formerly was restricted. The Coast Guard declines to extend those same requirements to undocumented CFVs because the proposed rule focuses exclusively on CGAA and CGMTA mandates, and the Coast Guard is not using any discretionary authority which would be required in order to make such a determination. The proposed rule would amend subpart C to clarify that, at least for now, the proposed changes would apply only to documented subpart C CFVs.

Substitution of baseline for Boundary Line criteria. Special statutory provisions involving safety standards apply to the subset of CFVs that operate relatively far from shore, or with more than 16 persons onboard, or that are Aleutian Trade fish tender vessels. Formerly, the relevant distance from shore was defined as "beyond the Boundary Line." The location of the Boundary Line is set by Coast Guard regulation and varies by distance from the coastline around the country. The CGAA redefined the relevant distance as "beyond 3 nautical miles from the baseline from which the territorial sea of the United States is measured or beyond 3 nautical miles from the coastline of the Great Lakes," and this rule proposes to align regulatory language accordingly.

Survival craft. Until the CGAA was enacted, certain CFVs were allowed by statute and regulation to use life floats or rigid buoyant apparatus as survival craft. The CGAA requires survival craft on all CFVs to fully protect the occupants from exposing any part of the body to immersion in water.[6] This rule proposes to include that requirement in the CFV regulations and requests public comment on whether or not, and to what extent, if any, we should exercise the limited grandfathering authorized by the CGAA and the CGMTA for certain non-conforming survival craft.

Records. This rule proposes to amend the CFV regulations so that they include the CGAA requirement that individuals in charge of certain CFVs keep records of equipment maintenance, and crew instruction and drills.

Vessel examinations. Until the CGAA was enacted, the only CFVs required by the Coast Guard to undergo dockside safety examinations were fish processors, or fish tenders in the Aleutian trade. This rule proposes to incorporate the CGAA and CGMTA provisions that extend dockside examination requirements to any subpart C CFV. Dockside examinations must take place at least once every 5 years, with the first examinations to have been completed by October 15, 2015.

Construction standards for smaller vessels. This rule proposes to amend CFV regulations to include the CGAA requirement for CFVs under 50 feet in length and built in 2010 or later to comply with Coast Guard construction standards for recreational vessels.

Load lines. Until the CGAA was enacted, CFVs were exempt from all statutory or regulatory load line requirements. This rule proposes to amend Coast Guard regulations to reflect the CGAA and CGMTA provisions that remove the load line exemption for CFVs built after July 1, 2013.

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[3] *See* H.R. Rep. No. 111–303, pt. 1, at 93 (accompanying H.R. 3619, the Coast Guard Authorization Act of 2010): "The [marine safety title] of H.R. 3619 contains a variety of provisions intended to strengthen the Coast Guard's implementation of its marine safety functions. These provisions will ensure that the Coast Guard maintains a marine safety program that prevents casualties from occurring, minimizes the effect of the casualty, and maximizes lives saved, if a vessel must be abandoned. Commercial fishing is the most hazardous occupation in the United States according to the Department of Labor's Bureau of Labor Statistics . . .".

[4] Department of Homeland Security Delegation No. 0170.1, para. II, (92.b).

[5] *See* 46 CFR 67.7 for what constitutes a documented vessel: "Any vessel of at least five net tons which engages in the fisheries on the navigable waters of the United States or in the Exclusive Economic Zone, or coastwise trade, unless exempt under § 67.9(c), must have a Certificate of Documentation bearing a valid endorsement appropriate for the activity in which engaged."

[6] The Coast Guard Authorization Act of 2015, Pub. L. 114–120, amended 46 U.S.C. 3104 by removing language mandating that we require survival craft on all CFVs to protect occupants against immersion in water. The survival craft provisions of 46 U.S.C. 4502 were unaffected and therefore those provisions continue to apply to subpart C survival craft. The 2015 legislation will be addressed in a future rulemaking.

Classing of vessels. Until the CGAA was enacted, a fish processor had to meet all survey and classification requirements prescribed by the American Bureau of Shipping or another organization approved by the Coast Guard, if it was built or converted after July 27, 1990. The CGAA and the CGMTA extended this requirement to any subpart C CFV of 50 feet or more overall in length and built after July 1, 2013.[7] This rule proposes to amend Coast Guard regulations to incorporate the 2010 and 2012 vessel classing requirements.

Termination of unsafe operations. This rule proposes to amend Coast Guard regulations so they reflect the broader CGAA authority to terminate a CFV's operations if the Coast Guard observes it operating under unsafe conditions, or if the CFV lacks required documentation like a certificate of having passed a dockside examination.

Miscellaneous equipment. This rule proposes to amend Coast Guard regulations for subpart C vessels to include CGAA requirements for marine radios, navigation equipment, medical supplies, and ground tackle.

Regulatory costs and benefits. Based on Marine Information for Safety and Law Enforcement (MISLE) data, there are approximately 75,083 existing commercial fishing vessels that would be potentially affected by this proposed rulemaking. This rule proposes new requirements for vessels that are expected to operate beyond three nautical miles from the baseline from which the territorial sea is measured and the coastline of the Great Lakes. Coast Guard subject matter experts estimate that 36,115 of those 75,083 existing commercial fishing vessels operate beyond the three nautical miles threshold, and are affected by this rulemaking. Of the 36,115 vessels that operate beyond the three nautical mile threshold, 17,237 are documented fishing vessels and 18,878 are undocumented fishing vessels.

The 10-year discounted present value cost to industry of this proposed rule is an estimated $240.3 million based on a 7 percent discount rate and $285.7 million based on a 3 percent discount rate. The annualized cost to industry is estimated at $34.2 million at the 7 percent and $33.5 million at the 3 percent discount rate. The cost of third-party classing of vessels makes up the majority of the total industry costs.

We anticipate that the government will incur labor and travel costs to conduct dockside CFV safety exams. We estimate the total present value cost to government over the 10-year period of analysis to be $38.2 million discounted at 7 percent, and $46.4 million discounted at 3 percent. Annualized government costs are about $5.4 million under both 7 percent and 3 percent discount rates.

We estimate the combined total 10-year present value cost of the rulemaking to industry and government at $278.5 million, discounted at 7 percent, and $332.1 million, discounted at 3 percent. The combined annualized costs to industry and government are $39.7 million at 7 percent and $38.9 million at 3 percent. The expected annual effect on the economy of the proposed rule would not exceed $100 million in the first or any subsequent year of implementation.

The proposed rule is intended to reduce the risk of future fishing vessel casualties, and if a casualty occurs, to minimize the adverse impacts to crew and enable them to have the maximum opportunity to survive and to be rescued. The primary benefits resulting from increased safety include reductions in the risk of fatalities, property loss, and environmental damage that can be caused by lost and damaged commercial fishing vessels. The estimate of annualized quantified benefits ranges between $7.1 and $9.4 million, with a primary estimate of monetized annualized benefits of $7.1 million at a 7 percent discount rate. We did not estimate monetized benefits for several requirements, including recordkeeping for equipment maintenance and classing certain newly built vessels.

IV. Background, Basis, and Purpose

This is one of two Coast Guard publications that appear in today's **Federal Register** and involve uninspected CFVs:

- A separate document announcing our withdrawal of a rulemaking (RIN 1625–AA77) that we began prior to 2010, and for which we issued an advance notice of proposed rulemaking (ANPRM) in 2008.[8]
- This proposal to implement 2010 and 2012 statutory mandates. The proposed rule is the first **Federal Register** publication issued in connection with the RIN 1625–AB85 rulemaking.

The basis of this proposed rule is the CGAA, as amended by the CGMTA. Both acts amended several provisions pertaining to CFVs that were first enacted as part of the Commercial Fishing Industry Vessel Safety Act of 1988 and codified in 46 U.S.C., chapter 45.[9] We discuss specific CGAA and CGMTA mandates and how they are implemented in the proposed rule in Part VI of this preamble.

The purpose of this proposed rule is to implement those CGAA and CGMTA mandates that pertain to CFVs, that became effective upon enactment of the CGAA in 2010 and the CGMTA in 2012, and that can be incorporated in Coast Guard CFV regulations without the exercise of any Coast Guard discretion. In many cases, the new mandates significantly change previous statutory requirements for CFVs. Current Coast Guard CFV regulations in 46 CFR part 28 align with the previous statutory requirements but not with the new mandates. This results in confusion for the regulated public. This proposed rule would align our regulations with the CGAA and CGMTA mandates. It does not reflect any provision of the Coast Guard Authorization Act of 2015. That Act will be the subject of future Coast Guard regulatory action.

V. Discussion of Comments on 2008 ANPRM

In response to our 2008 ANPRM, we heard from 43 public commenters, 9 of whom spoke at the public meetings held in Seattle, WA in November 2008. Several commenters made multiple submissions to the docket. Twelve of the commenters identified their primary affiliation as the commercial fishing industry; ten were naval architects, engineers, or consultants; seven were affiliated with safety activity (generally trainers or examiners); four were affiliated with Federal or State government; four were equipment manufacturers or service companies; three were individual fishermen; one commented on behalf of the Commercial Fishing Industry Vessel Safety Advisory Committee (CFIVSAC; renamed "Commercial Fishing Safety Advisory Committee" by the CGAA); one commented on behalf of the Coast

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[7] Sec. 318(a) of the Coast Guard Authorization Act of 2015, Pub. L. 114–120, changed the applicability of classing requirements for CFVs. The 2010 and 2012 legislation extended the classing requirement to CFVs of 50 feet or more overall in length and built after July 1, 2013. The 2015 Act exempts from that requirement CFVs of at least 50 and not more than 79 feet overall in length, and built after Feb. 8, 2016, provided their construction is overseen by a State-licensed naval architect or marine engineer, and their design "incorporates standards equivalent to those prescribed by a classification society . . . or another qualified organization. . . ." This NPRM does not incorporate any of the 2015 provisions, which must be reflected in our regulations through future regulatory action.

[8] 73 FR 16815 (Mar. 31, 2008).

[9] Pub. L. 100–424, 102 Stat. 1585 (Sept. 9, 1988).

Guard-sponsored Task Force for Implementation of the Global Mariner Distress and Safety System; and one did not identify any affiliation.

The ANPRM posed 30 questions for public comment, as shown in Table 1. Only a few commenters responded specifically to individual questions, but most commenters discussed themes related to those questions. Our discussion groups all comments by theme.

TABLE 1—ANPRM QUESTIONS AND RELATED THEMES

Question	Theme
1. Given the statistics on vessel losses in Tables 2 and 3 (of the ANPRM), what issues related to stability and watertight integrity should the Coast Guard consider addressing in regulations?	Stability and watertight integrity (SWI).
2. Table 2 (of the ANPRM) shows that vessel flooding results in the most vessel losses, and Table 3 (of the ANPRM) shows that flooding and sinking account for a significant portion of fatalities. What areas should be addressed to reduce vessel flooding losses and fatalities?	Stability and watertight integrity.
3. What routine measures are used to prevent unintentional flooding?	Stability and watertight integrity.
4. How often is your vessel examined by a marine surveyor and under what circumstances? Is documentation of the survey provided?	Risk awareness and minimization.
5. Table 3 (of the ANPRM) shows that fire is a significant cause of vessel losses. What areas should the Coast Guard consider addressing to reduce the number of fire-related vessel losses (including, but not limited to: Construction standards, detection and extinguishing equipment, firefighting equipment, and firefighting training)?	Causes of loss other than SWI.
6. What means are used to limit the danger of fires and the consequence of fires?	Causes of loss other than SWI.
7. Table 2 (of the ANPRM) shows that a significant number of vessel losses are related to allisions, collisions, and groundings; how should the Coast Guard address these causes of vessel losses?	Causes of loss other than SWI.
8. What impact has safety training had in improving safety within the commercial fishing industry? Do you have recommendations concerning safety training?	Instruction and drill requirements.
9. What impact have crew drills had in improving safety within the commercial fishing industry? Do you have recommendations concerning crew drills?	Instruction and drill requirements.
10. If training were required, would it be accomplished during off-season times?	Instruction and drill requirements.
11. How would additional training impact one's ability to fish?	Instruction and drill requirements.
12. If stability standards for vessels between 50 feet and 79 feet in length are considered, what standards should apply, and to which vessels should the standards apply?	Stability and watertight integrity.
13. How does a crew become experienced in safety procedures?	Instruction and drill requirements.
14. Should entry level crewmembers be expected to have a minimum level of familiarity with safety procedures?	Instruction and drill requirements.
15. How and when is stability guidance used? If stability guidance is available but not used, please explain why.	Instruction and drill requirements.
16. How are operating personnel made aware of stability and watertight integrity guidance?	Instruction and drill requirements.
17. How often should stability guidance be reviewed, updated, or validated?	Instruction and drill requirements.
18. How are modifications to a vessel or its gear accounted for relative to the vessel's maximum load, watertight integrity, and other stability considerations?	Stability and watertight integrity.
19. How adequate are current requirements for personal protection and survival equipment?	Safety and survival equipment.
20. How do crew members become familiar with vessel safety?	Safety and survival equipment.
21. How are safety risks aboard your vessel(s) identified and minimized?	Risk awareness and minimization.
22. If you are a small business, what economic impact on you, your business, or your organization would the rules we are considering have? In your comments please explain why, how, and to what degree such rules would have an economic impact.	Regulatory costs and benefits.
23. Have you experienced—or are you aware of—any situations where any of the measures under consideration saved lives, or prevented/reduced harm/damage to vessels?	Regulatory costs and benefits.
24. Are there areas not addressed that would benefit safety within the commercial fishing industry?	Miscellaneous.
25. What are the costs of each requirement we are considering? Are there comparable alternative solutions to each requirement under consideration that may be more cost effective?	Regulatory costs and benefits.
26. What are the direct and indirect costs of each requirement we are considering? For example, labor costs, training costs, and hourly wages of fishermen (or alternative measures of valuing their time if they are not salaried)? The costs of vessel losses, including equipment, lost catches, and any other opportunity costs?	Regulatory costs and benefits.
27. Can any of the requirements we are considering be completed off-season? If so, which ones? For those that cannot, how much time would be taken away from productive fishing time to complete the requirement? How would this affect revenue, i.e., fish catches?	Regulatory costs and benefits.
28. What would be the impact on the domestic fishing industry, if any, of each requirement we are considering? Would there be a differential impact by size of vessel or region?	Regulatory costs and benefits.
29. What would be the economic impact of each requirement we are considering on States, local, and tribal governments?	Regulatory costs and benefits.
30. What other requirements, if any, should the Coast Guard be considering?	Miscellaneous.

A. Stability and Watertight Integrity Questions

Table 2 shows the ANPRM's five questions relating to a vessel's stability and watertight integrity (SWI).

TABLE 2—ANPRM QUESTIONS ON STABILITY AND WATERTIGHT INTEGRITY

1. Given the statistics on vessel losses in Tables 2 and 3 (of the ANPRM), what issues related to SWI should the Coast Guard consider addressing in regulations?
2. Table 2 (of the ANPRM) shows that vessel flooding results in the most vessel losses, and Table 3 (of the ANPRM) shows that flooding and sinking account for a significant portion of fatalities. What areas should be addressed to reduce vessel flooding losses and fatalities?
3. What routine measures are used to prevent unintentional flooding?
12. If stability standards for vessels between 50 feet and 79 feet in length are considered, what standards should apply, and to which vessels should the standards apply?
18. How are modifications to a vessel or its gear accounted for relative to the vessel's maximum load, watertight integrity, and other stability considerations?

Twenty-three commenters responded to these questions.

New SWI measures. Eight commenters said additional high water alarm requirements are needed, while two others said they were not. Six commenters addressed the adequacy of existing SWI regulatory measures, with three calling them inadequate, two saying better training and enforcement is needed, and one saying SWI documentation requirements need strengthening. Five commenters said we should require stability training. Four commenters asked us to issue additional SWI regulations and extend SWI regulations to smaller vessels. Three commenters asked us to require periodic stability reassessment. One commenter said watertight enclosures need additional labeling.

We agree that additional high water alarm protection, better SWI training and documentation, and stability assessment and periodic reassessment would all contribute to reducing the risk of SWI-related CFV casualties. It is unclear to us whether the labeling of watertight enclosures requires additional regulatory attention and we ask for public comment on that topic. With respect to SWI and as we discuss in the next section of this preamble, our proposed rule would implement the statutory mandate for new subpart C CFVs less than 50 feet overall in length to meet recreational vessel construction standards, which include safe loading requirements (33 CFR part 183, subpart C) that help ensure small vessel stability. The other additional SWI measures cited by commenters on the ANPRM are not included in CGAA or CGMTA mandates, and therefore are beyond the scope of this proposed rule. The Coast Guard is reviewing additional measures and may take action in a separate future rulemaking.

SWI information. Five commenters provided or offered to provide information on routine measures to prevent unintentional flooding. Five commenters provided or offered to provide detailed information for developing new regulations. Three commenters said it is difficult to account for the impact of vessel modifications on vessel stability. Two commenters cited the importance of regular vessel maintenance and inspection for SWI. Two commenters said fatigue and fishing season limitations contribute to flooding losses and deaths. One commenter said stability is not an issue for smaller vessels.

We appreciate the information commenters provided and may use it in developing future regulatory proposals. We agree on the difficulty of assessing changes in a vessel's stability, and on the importance of regular SWI inspection and maintenance. We acknowledge the SWI risks posed by fatigue and fishing season factors, but point out that we lack regulatory authority over either issue. We agree that smaller CFVs may not be prone to the same stability issues that are relevant for larger vessels, but this does not mean small vessels are immune to SWI problems. Our data show that SWI may be a factor in some small vessel casualties.

SWI cost and logistics issues. Seven commenters expressed concern over the cost of new SWI regulations; three commenters wondered if there are enough naval architects to conduct additional stability assessments; and another commenter was concerned about the difficulty of obtaining stability assessments or training in small, remote fishing villages. Three commenters said we should take the needs and conditions of specific fisheries into account.

As previously noted, the scope of this rule is limited to proposing to implement the CGAA and CGMTA-mandated recreational vessel construction requirements for certain CFVs. Therefore at this time we are taking no action on SWI, but should we do so in the future, we would invite public comment on the validity of the cost and logistical concerns raised by commenters on the ANPRM, and on how best to address those concerns.

Miscellaneous. In addition, some of the 29 commenters who responded to Questions 24 and 30, which invited comment on miscellaneous issues, raised SWI points in those responses. Three commenters discussed ways of reducing flooding risk, including bilge and open-door alarms and regular hull examinations. One commenter said we should revise freeing port requirements to align with international standards. We agree that all these ideas could be worthy of consideration for future regulatory action, but since none is the subject of CGAA or CGMTA mandates, they are beyond the scope of this proposed rule. Should we take future regulatory action on SWI, hull examinations, and freeing port requirements, we would seek public comment on how best to address those issues.

B. Causes of Loss Other Than SWI

Table 3 shows the three questions we asked in the ANPRM relating to causes of loss other than stability and watertight integrity.

TABLE 3—ANPRM QUESTIONS ON CAUSES OF LOSS OTHER THAN SWI

5. Table 3 (of the ANPRM) shows that fire is a significant cause of vessel losses. What areas should the Coast Guard consider addressing to reduce the number of fire-related vessel losses (including, but not limited to, construction standards, detection and extinguishing equipment, firefighting equipment, and firefighting training)?
6. What means are used to limit the danger of fires and the consequence of fires?
7. Table 2 (of the ANPRM) shows that a significant number of vessel losses are related to allisions, collisions, and groundings; how should the Coast Guard address these causes of vessel losses?

Eight commenters responded to these questions.

Risk in general. Among factors cited as raising risk for CFVs are weather (4 commenters) and fatigue (3 commenters). Among factors cited as lowering risk for CFVs are training (2 commenters), and safety and security watchstanders (1 commenter). Two commenters provided technical information that we may use in developing future regulatory action. We agree with each of the factors cited as raising or lowering CFV risk, and we may address them in a future rulemaking. The legislation mandated additional training for persons in charge of certain CFVs.[10] Because that mandate cannot be implemented without the exercise of the Coast Guard's discretion, it is not reflected in this proposed rule but may be the subject of future regulatory action.

Reducing fire risk. Three commenters provided or offered to provide information about measures used to limit fire danger or to control the consequences of fire. We may use that information in developing future regulatory action. Three commenters specified additional factors, for example vessel examinations, that can reduce the risk of fire; a fourth commenter said several factors beyond the control of any regulator could lead to fire on smaller vessels. We agree with all four commenters. Additional fire risk control measures are not included in CGAA or CGMTA mandates and therefore are beyond the scope of this proposed rule.

Miscellaneous. In addition, some of the 29 commenters who responded to Questions 24 and 30, which invited comment on miscellaneous issues, raised "other causes of loss" points in those responses. Two commenters said we should pay more attention to preventing or dealing with man-overboard incidents, and one commenter each cited the quality of weather reports, crew fatigue, structural fire protection, and pre-employment drug testing as factors deserving our regulatory attention. We agree that these are all factors that can affect CFV safety, and we may consider them in the future. None of the factors cited by the commenters is addressed in CGAA or CGMTA mandates and, therefore, they are all beyond the limited scope of this proposed rule.

C. Risk Awareness and Minimization

Table 4 shows the two questions we asked in the ANPRM about risk awareness and minimization.

TABLE 4—ANPRM QUESTIONS ON RISK AWARENESS AND MINIMIZATION

4. How often is your vessel examined by a marine surveyor and under what circumstances? Is documentation of the survey provided?
21. How are safety risks aboard your vessel(s) identified and minimized?

Twenty commenters responded to these questions.

Vessel examination. Nine commenters said we should require mandatory periodic vessel self-examinations tailored to the needs and conditions of specific fisheries, but two other commenters said that over-zealous Coast Guard enforcement and unnecessary vessel boardings discourage voluntary vessel self-examination. Four commenters said periodic examinations are already required, usually by insurers. Three commenters said we should require mandatory Coast Guard dockside vessel examinations, but two other commenters said the Coast Guard has too few inspectors to conduct such examinations efficiently, and a third commenter said required vessel self-examinations would have little value. Two commenters pointed out that documentation of vessel self-examinations could be fraudulent.

Vessel self-examination is not included in CGAA or CGMTA mandates and therefore is beyond the scope of this proposed rule. However, the proposed rule does implement the statutory mandate for dockside examination of CFVs subject to 46 CFR part 28, subpart C: those that operate beyond 3 nautical miles from the U.S. territorial sea baseline, or with more than 16 persons onboard, or that are Aleutian Trade fish tender vessels (collectively referred to as "subpart C vessels"). We believe we are fully prepared to enforce the dockside examination requirement and appropriately staffed to do so. We encourage all CFV owners and operators to conduct their own frequent examinations of vessel and equipment condition, and we acknowledge that many already do so, for insurance reasons or as a best practice. We acknowledge that vessel self-examination and compliance documentation could be subject to fraud or error, but point out that fraudulent or erroneous documentation exposes perpetrators to the civil and criminal penalty provisions of 33 CFR subpart 1.07.

We are concerned by any reports of impropriety in Coast Guard enforcement activity, though that is beyond the scope of this rulemaking. We are committed to effective, but fair, regulatory enforcement. If you believe you have been subject to improper Coast Guard enforcement activity, we encourage you to bring it to the attention of your local Coast Guard office. You should also be aware that under 46 CFR 1.03–20 you can appeal an inspector's action to the cognizant Coast Guard District Commander. Finally, if you are a small business you may send comments on Coast Guard regulatory enforcement actions to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small businesses. If you wish to comment on actions by employees of the Coast Guard, call the Ombudsman's office at 1–888–REG–FAIR (1–888–734–3247).

Other risk minimization measures. Two commenters said that vessel owners and operators pass risk information to their crews. One commenter each remarked that risks are minimized through regular maintenance, drills, and training; that we should require mandatory crew training; that we should improve documentation of casualties occurring while a vessel is traveling to or from fishing grounds; and that we should not require vessel safety officers.

We agree that keeping crews informed and trained to minimize risk is essential for CFV safety. We think some vessels may benefit from designating a vessel safety officer. At this time, we take no position on whether additional regulatory action is needed to improve in-transit casualty documentation. Aside from requiring documentation of crew instruction and drills, the risk minimization measures discussed by the commenters are not included in CGAA or CGMTA mandates and, therefore, are beyond the scope of this proposed rule.

Miscellaneous. In addition, some of the 29 commenters who responded to Questions 24 and 30, which invited comment on miscellaneous issues and raised risk awareness and minimization points in those responses. Two commenters asked us to provide more regulatory guidance, like compliance checklists, and a third commenter provided sample checklists and maintenance guidelines. Two commenters said we should conduct random dockside safety audits. One commenter said we should require mandatory Coast Guard dockside vessel examination.

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[10] 46 U.S.C. 4502(g).

We try to make valuable information and regulatory guidance available to commercial fishermen. Our "Homeport" Web site, *http://homeport.uscg.mil,* features a page dedicated to commercial fishing vessels. That page provides numerous links to safety information and related Web sites. Random audits are not included in CGAA or CGMTA requirements and therefore are beyond the scope of this proposed rule, but the proposed rule does implement statutory requirements for the mandatory dockside examination of certain CFVs.

D. Instruction and Drill Requirements

Table 5 shows the nine questions our ANPRM asked about instruction and drill requirements.

TABLE 5—ANPRM QUESTIONS ON INSTRUCTION AND DRILL REQUIREMENTS

8. What impact has safety training had in improving safety within the commercial fishing industry? Do you have recommendations concerning safety training?
9. What impact have crew drills had in improving safety within the commercial fishing industry? Do you have recommendations concerning crew drills?
10. If training were required, would it be accomplished during off-season times?
11. How would additional training impact one's ability to fish?
13. How does a crew become experienced in safety procedures?
14. Should entry-level crewmembers be expected to have a minimum level of familiarity with safety procedures?
15. How and when is stability guidance used? If stability guidance is available but not used, please explain why.
16. How are operating personnel made aware of stability and watertight integrity guidance?
17. How often should stability guidance be reviewed, updated, or validated?

Twenty-seven commenters responded.

Training on stability and watertight integrity (SWI). Eight commenters said that at least some members of a vessel's crew should receive training in SWI. Three commenters said we should adopt the Commercial Fishing Industry Vessel Safety Advisory Committee's recommendation for all crew members to receive at least some level of stability training. Three commenters said they already provide their crews with stability training. Two commenters said stability training helps the master understand vessel capabilities and develop operational guidance for the crew. One commenter said stability training for crew members should focus on areas where crew members can assist the master in preserving vessel stability.

This proposed rule does not address SWI training. We encourage CFV owners and operators to provide SWI training for all crew members. Should we take future regulatory action on SWI training, we would first submit our proposed action to the public for comment.

Vessel-specific stability assessment or guidance. Five commenters said we should require assessments and reassessments at least every five years, or under other conditions they specified; a sixth commenter said requiring assessment results to be reported would impose an unnecessary cost. Four commenters said that vessel-specific stability guidance is logistically difficult and expensive to provide; a fifth commenter specifically cited the difficulty of reassessing an older vessel's stability if no vessel blueprints are available. Two commenters said stability guidance must be adapted for the use of smaller vessels. Two commenters said lightweight surveys are sufficient to ensure stability, implying opposition to any requirement for incline testing; two other commenters said incline testing can be important especially for vessels that are particularly susceptible to weight changes; a fifth commenter said inspectors might push for unnecessary incline tests. Two commenters said vessels should be required to document weight changes continuously. One commenter said stability guidance is useful only if it is easy to understand. Another commenter said concisely worded stability guidance is easier to understand than pictorial displays. One commenter said stability should be reassessed only as part of the vessel survey needed to purchase insurance; another said reassessment is only necessary if the vessel is significantly altered. One commenter said stability guidance should be updated whenever a vessel spends significant time in a shipyard or dockside. One commenter said the master should be required to review stability guidance at least yearly, or prior to every voyage, while another commenter said the master could review stability guidance by using a simple stability checklist.

Vessel stability assessment and guidance are not addressed in the CGAA or CGMTA mandates, and thus are beyond the scope of this proposed rule, but we encourage CFV owners and operators to obtain, make sure they understand, and frequently review stability assessments and guidance. We think the difficulty and expense of taking these measures need to be weighed against the considerable safety risk that comes with vessel instability. We also think it is best safety practice to reassess a vessel's stability not only after a significant modification, but also periodically (for example, every five years), because a vessel's stability characteristics can change over long periods of time. Should we take future regulatory action to mandate this practice, we would first submit the proposed action to the public for comment.

This rule proposes to implement the statutory mandate for new subpart C CFVs of less than 50 feet overall in length to meet recreational vessel construction standards, which include safe loading requirements (33 CFR part 183, subpart B) that help ensure a small vessel's stability. Lightweight surveys are often sufficient for stability assessment purposes, but we agree with the commenters who said incline testing is important for a vessel that is particularly susceptible to weight changes. Continual awareness of how changes to a vessel or its equipment can affect stability is important, and we encourage CFV owners and operators to document vessel weight changes.

General crew training and drill requirements. Eleven commenters said we should increase crew training and periodic retraining requirements; seven commenters said we should require periodic retraining; three other commenters opposed increased requirements due to costs in time and money; another commenter said we should exempt experienced fishermen from additional training requirements; another said additional training only makes work for the Coast Guard; and another said crew members should be included in the safety training we conduct for Coast Guard personnel. Five commenters said entry-level crew members should have vessel-specific safety orientation and training; a sixth commenter said this should not be necessary for a crew member with significant recent experience on another vessel; and a seventh said that orientation—with good leadership from the master—helps prepare crews. Five commenters said crew training should be documented. Three commenters said safety planning and drills help prepare crews to deal with emergencies. Three commenters said compliance with current training requirements is often inadequate; while two other commenters said the Coast Guard does not adequately enforce those requirements. Two commenters said we should address fatigue awareness in crew training, and a third said crews should be trained to deal with man-overboard emergencies.

The legislation mandates additional training for the persons in charge of certain CFVs and to document crew instruction and drills, which will be the subject of future regulatory action because implementation will require further consideration of the appropriate exercise of Coast Guard discretionary authority. Otherwise, CGAA and CGMTA mandates do not impose other new training requirements, and therefore the commenter's recommended changes are beyond the scope of the proposed rule. Nevertheless we encourage CFV owners and operators to make sure crews are well-trained. The expense and difficulty of crew training, retraining, and drills should be weighed against the safety risks to which CFV crews are exposed and the safety benefits that frequently refreshed training and drills can provide. We do not agree that CFV crews need the same training Coast Guard personnel receive—our training is designed to meet the needs of our service—but we think even experienced fishermen can benefit from additional training, especially when that training is specific to a vessel's unique structural, equipment, and operational characteristics, and that new crew members should receive a vessel-specific safety orientation as soon as they come aboard. We encourage CFV owners and operators to include fatigue awareness and response to man-overboard emergencies in their crew training. We are concerned by comments that charge us with inadequate enforcement of existing regulations, and we have devoted particular attention to planning for effective enforcement of this proposed rule.

Logistics of training. Three commenters said certain training can be conducted in the off season, but that other topics need to be addressed just prior to and during vessel operations; a fourth commenter said that the off season is the only effective time for training. Two commenters said providing training in remote coastal areas is logistically difficult. Two commenters said we should require formal training and periodic retraining for drill instructors. One commenter said we should phase in new training requirements to ensure a sufficient number of trainers. One commenter said fishing vessel operators need to make time for training and that additional training would not be unduly burdensome. One commenter said training requirements are complicated by late changes in crew membership, but another said this complication can be overcome through onboard training.

The legislation mandates additional training for the persons in charge of certain CFVs and to document crew instruction and drills, which will be the subject of future regulatory action because implementation will require further consideration of the appropriate exercise of Coast Guard discretionary authority. Otherwise, CGAA and CGMTA mandates do not impose other new training requirements, and therefore the commenter's recommended changes are beyond the scope of the proposed rule. We acknowledge the logistical difficulties involved in providing good training, but we agree that the value of training makes it worth overcoming those difficulties, and that this often can be done by balancing off-season training with onboard training and drills.

Vessel safety and drill officers. Three commenters said we should require onboard drill conductors. Three commenters discussed whether a "vessel safety officer" should be mandatory, with two opposing the position because it could interfere with the master's authority, and the third disputing that idea and supporting the position. We think some CFVs can benefit from having designated onboard drill conductors and vessel safety officers, but neither is required by CGAA or CGMTA mandates nor required by this proposed rule.

Miscellaneous. In addition to the nine ANPRM questions specifically relating to instruction and drill requirements, Questions 24 and 30 invited comments on miscellaneous issues. Some of the 29 commenters who responded to Questions 24 and 30 used the opportunity to discuss instruction and drill requirements in general terms. Four commenters suggested additional training topics: One each suggesting the use of personal flotation devices (PFDs) to mitigate the risk of falling overboard, additional training for rescue swimmers, fatigue awareness and endurance, and damage control. Two commenters said we should provide more information about operational improvements and new products that could enhance safety. One commenter said we should improve regulatory awareness by mailing the regulations to every vessel owner. One commenter said we can improve safety on older vessels that cannot upgrade safety features, by focusing on training, instruction, and regular inspections.

None of the additional training topics these commenters suggested is required by CGAA or CGMTA mandates, and therefore they are not included in this proposed rule. However, we acknowledge that each topic can be a useful part of CFV crew safety training. We try to make valuable CFV safety information available to commercial fishermen. We have briefed attendees on the CGAA/CGMTA mandates at national and regional meetings of associations that represent CFV owners and operators, and our "Homeport" [11] and "FishSafe" [12] Web sites provide a summary of the CGAA/CGMTA mandates [13] as well as numerous links to CFV safety information and related Web sites.[14] We will continue to provide easily accessible CFV safety information, and ample guidance and publicity to accompany any new regulations. Our proposed rule and any final rule, along with any supplementary materials, will also be available in several locations on the Internet, including the **Federal Register** Web site and *Regulations.gov.* We believe that improved training, instruction, and vessel self-examination are of value to all vessels, and that this may be particularly true for older vessels.

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[11] *See https://homeport.uscg.mil/mycg/portal/ep/home.do.*

[12] *See http://www.fishsafe.info/.*

[13] *See http://www.fishsafe.info/Update%20on%20CFVS%20Requirements%20-%201Mar2013.pdf.*

[14] For example, information on updated dockside safety examination requirements appears at *http://www.fishsafe.info/Update%20on%20CFVS%20Requirements%20-%201Mar2013.pdf.* An alert on overloaded CFV lifting gear appears at *http://www.fishsafe.info/MSA02-12.pdf,* and a dockside safety examination request form appears at *http://www.fishsafe.info/docksideexamrequest.htm.*

E. Safety and Survival Equipment

Table 6 shows the two questions the ANPRM asked about safety and survival equipment.

TABLE 6—ANPRM QUESTIONS ON SAFETY AND SURVIVAL EQUIPMENT

19. How adequate are current requirements for personal protection and survival equipment?
20. How do crew members become familiar with vessel safety and survival equipment?

Twenty-four commenters responded to these questions.

Equipment in general. Five commenters said old equipment needs to be replaced and equipment lifespan guidelines should be set for specific items. Four commenters said crew members become familiar with safety and survival equipment through proper training and frequent drills. Four commenters said we should exempt fisheries and types of vessels of interest to those commenters. Three commenters said we should allow properly labeled outdated equipment to be used for training. Two commenters said better protection is needed to prevent man-overboard incidents. One commenter each said equipment requirements for larger CFVs should apply to all CFVs; that we should develop an equipment recall program; and that emergency equipment is often improperly installed and maintained.

The legislation mandates additional training for the persons in charge of certain CFVs, and to document crew instruction and drills, which will be the subject of future regulatory action because implementation will require further consideration of the appropriate exercise of Coast Guard discretionary authority. Otherwise, CGAA and CGMTA mandates do not impose other new training requirements, and therefore the commenter's recommended changes are beyond the scope of the proposed rule. However, CFV safety could benefit from examining these issues and we may do so in future regulatory action.

Survival craft.[15] Five commenters said survival craft often cannot be launched by one person. Five other commenters said the location of survival craft can be problematic, especially for smaller vessels, and can interfere with normal operations. One commenter said current survival craft may not be properly designed or equipped. One commenter said we should update survival craft requirements, and this proposed rule implements the statutory mandate for survival craft to protect occupants from immersion in water. We agree with the comments made by these commenters and may address the issues they raise in future regulatory action.

Emergency communications and lighting. Five commenters said we should require emergency position indicating radio beacon (EPIRB) registration. Two commenters said current emergency lighting regulations are inadequate. One commenter asked us to update all emergency communication requirements. One commenter noted that EPIRBs and other distress signals are often inaccessible in emergencies. We agree that EPIRBs should be registered, as is required by Federal Communications Commission regulations in 47 CFR 80.1061(e) and (f). CFV safety could benefit from examining the issues raised by all these commenters and we may do so in future regulatory action, but because none of those issues is addressed by CGAA or CGMTA mandates, they are beyond the scope of the proposed rule.

Immersion suits and personal flotation devices. Four commenters said we should require immersion suits to be carried in seasonally cold waters, and three other commenters noted that hypothermia is possible even in warm waters. Four commenters said we should require revised immersion suit labeling because "universal" suits do not fit many crew members. One commenter asked us to require PFDs or other protective gear to be worn in rough weather. We agree with the points made by these commenters and may address them in future regulatory action, but because they are not addressed by CGAA or CGMTA mandates, they are not included in this proposed rule.

Embarkation stations. Three commenters asked us to modify embarkation station requirements based on vessel size. One other commenter said we should develop new requirements for embarkation stations, but another commenter noted that such requirements could be counterproductive for smaller vessels. We agree that, in addition to the existing 46 CFR 28.395 embarkation station requirements for certain CFVs, new vessel-appropriate embarkation station requirements may improve CFV safety, and we may consider such requirements for future regulatory action, but because they are not addressed by CGAA or CGMTA mandates, they are not included in this proposed rule.

Miscellaneous. In addition, some of the 29 commenters who responded to Questions 24 and 30, which invited comment on miscellaneous issues, raised safety and survival equipment points in those responses. Three commenters said we should require PFDs to be worn in rough weather. Two commenters said the Coast Guard should work with cell phone companies to provide better coverage on fishing grounds; another commenter cited the value of the Coast Guard's Rescue 21 project in improving radio coverage. One commenter generally opposed current emergency power source requirements; another commenter generally favored adoption of a recognized industry standard for such requirements. One commenter each said we should require the use of protective equipment under hazardous conditions, require vessels to carry damage control kits, require immersion suits to be fitted with strobe lights, regulate boarding ladder locations, and regulate the safety of vessel front windows.

CFV safety could benefit from examining the issues raised by all these commenters and we may do so in future regulatory action, but because none of those issues is addressed by CGAA or CGMTA mandates, they are not included in this proposed rule.

F. Regulatory Costs and Benefits

Table 7 shows the seven questions our ANPRM asked about regulatory costs and benefits.

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[15] The Coast Guard Authorization Act of 2015, Public Law 114–120, amended 46 U.S.C. 3104 by removing language mandating that we require survival craft on all CFVs to protect occupants against immersion in water. The survival craft provisions of 46 U.S.C. 4502 were unaffected and therefore those provisions continue to apply to subpart C survival craft. The new legislation will be addressed in a future rulemaking.

TABLE 7—ANPRM QUESTIONS ON REGULATORY COSTS AND BENEFITS

22. If you are a small business, what economic impact on you, your business, or your organization would the rules we are considering have? In your comments please explain why, how, and to what degree such rules would have an economic impact.
23. Have you experienced—or are you aware of—any situations where any of the measures under consideration saved lives, or prevented/reduced harm/damage to vessels?
25. What are the costs of each requirement we are considering? Are there comparable alternative solutions to each requirement under consideration that may be more cost effective?
26. What are the direct and indirect costs of each requirement we are considering? For example, labor costs, training costs, and hourly wages of fishermen (or alternative measures of valuing their time if they are not salaried)? The costs of vessel losses, including equipment, lost catches, and any other opportunity costs?
27. Can any of the requirements we are considering be completed off-season? If so, which ones? For those that cannot, how much time would be taken away from productive fishing time to complete the requirement? How would this affect revenue, i.e., fish catches?
28. What would be the impact on the domestic fishing industry, if any, of each requirement we are considering? Would there be a differential impact by size of vessel or region?
29. What would be the economic impact of each requirement we are considering on States, local, and tribal governments?

Twenty commenters responded.

General impact. Seven commenters commented on the likely expense of taking regulatory action to implement ideas discussed in the ANPRM, with five commenters saying the cost impact would be significant and adverse, and two others saying the impact would vary depending on fishery and vessel size. Seven commenters cited ways in which we might mitigate regulatory costs for the CFV industry: two saying we should focus on fishery-specific regulations; one each saying we should avoid imposing new regulations and instead improve CFV safety through online instruction, improved weather forecasting, and better Coast Guard cooperation with industry; that we should let insurance companies take the lead in requiring new safety measures; that we should provide grants to help CFV operators finance new safety measures; that we should phase in the implementation of costly measures; and that we should increase reliance on alternative compliance programs. Two commenters provided general cost information, one saying it costs almost $1,000 per year to provide safety equipment for vessels operating outside the Boundary Line, and the other saying that the annual per person direct cost of safety training is no more than $225 per day, sometimes $100 per day or less.

The Coast Guard has no statutory role in the accurate development or distribution of the weather forecasts available to the CFV community. Otherwise, we will be mindful of the cost information and concerns voiced by these commenters and will consider their suggestions for mitigating cost impacts in taking any future regulatory action. This proposed rule is limited to implementing CGAA and CGMTA mandates, as we are required by law to do, and because of the limited scope of those mandates, the cost impact of this proposed rule is less than it would be if we were to proceed with all the regulatory actions we discussed in the ANPRM.

Small business impact. Two commenters said new regulations would likely have a significant adverse economic impact on small businesses. One commenter said new regulations would be an incentive for small business operators to spend less time fishing and more time working in safety related work. One commenter provided or can provide detailed small business economic information. We agree that new congressionally mandated regulations may have an adverse economic impact on small businesses. We will be mindful of the impacts on small businesses in any future regulatory action. As we have previously explained, this proposed rule is limited to implementing CGAA and CGMTA mandates without the exercise of Coast Guard discretion. Because of the more limited scope of those mandates, the cost impact on small businesses of this proposed rule would be less than it would be if we were to proceed with all the regulatory actions we discussed in the ANPRM.

Specific regulatory measures. Seven commenters cited the likely high cost of specific regulatory measures discussed in the ANPRM: stability (3 commenters), documentation (2 commenters), training (1 commenter), and boarding ladders and embarkation stations (1 commenter). Five commenters cited specific regulatory measures that would benefit CFV safety: improved instruction and drill (2 commenters); new regulations in general (1 commenter); new instruction and drill, vessel maintenance, immersion suit, and EPIRB regulations (1 commenter); regular high water alarm tests, crew debriefings after emergency drills, and crew discussions of incidents involving other vessels (1 commenter). Four commenters provided cost information for stability analysis and documentation.

We agree that all the measures cited by these commenters could benefit CFV safety and we may consider them for future regulatory action, in which case we may use the cost information some commenters provided. The CGAA and CGMTA mandates require persons in charge of certain CFVs to receive training (including stability training) and require documentation of crew instruction and drills, but otherwise they do not address the regulatory measures cited by these commenters, and therefore they are not included in this proposed rule.

G. Miscellaneous Issues

Table 8 shows the two questions our ANPRM asked about miscellaneous issues.

TABLE 8—ANPRM QUESTIONS ON MISCELLANEOUS ISSUES

24. Are there areas not addressed (in the ANPRM) that would benefit safety within the commercial fishing industry?
30. What other requirements, if any, should the Coast Guard be considering?

Twenty-nine commenters responded to these questions.

Regulations for subsets of the CFV industry. Fourteen commenters said that our CFV regulations should be modified to reflect the special conditions and risks found in certain regions (8 commenters), fisheries, or types of vessel (6 commenters). In considering any future regulatory action, we would try to accommodate subset-specific concerns. This proposed rule is limited to implementing CGAA and CGMTA mandates that sometimes require different behavior depending on vessel size or operating conditions, but which otherwise apply to CFVs regardless of region or fishery.

Coast Guard resources and enforcement. Several commenters recommended changes in the way we allocate resources to CFV safety and enforce CFV regulations. They suggest we add enforcement resources (6 commenters); improve enforcement efficiency and fairness (6 commenters); better enforce existing regulations (2 commenters); focus on approving vessel plans and licensing operators (2 commenters); develop a competitive grant program to research CFV safety (1 commenter); have an advisory board of naval architects (1 commenter); update Coast Guard safety guidance (1 commenter); and focus on providing safety checklists (1 commenter). We may consider these recommendations for future action, but none is addressed by CGAA or CGMTA mandates and, therefore, all are beyond the scope of this proposed rule.

Though it is beyond the scope of this proposed rule, we are concerned by any report of unfairness in Coast Guard enforcement activity. We are committed to effective and fair regulatory enforcement. If you believe you have been subject to improper Coast Guard enforcement activity, we encourage you to bring it to the attention of your local Coast Guard office. You should also be aware of the "rights of appeal" provisions contained in our regulations, in 46 CFR subpart 1.03. Finally, if you are a small business, you may send comments on Coast Guard regulatory enforcement actions to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Rulemaking protocols. Several commenters made recommendations about guiding principles and procedures that we should keep in mind when engaged in CFV rulemakings. They said we should view supporting data with caution (3 commenters), provide a long public comment period and several public meetings in connection with any NPRM (2 commenters), base regulations on International Maritime Organization standards wherever possible (2 commenters), use international weight and measurement standards (1 commenter), expand voluntary compliance programs (1 commenter), and stop grandfathering older vessels (1 commenter). This rule proposes to implement CGAA and CGMTA mandates that have been in place for several years. However, we will bear the concerns and recommendations voiced by these commenters in mind in taking any further CFV regulatory action. Since the passage of the 2010 and 2012 legislation, we have made numerous presentations and received input from the public at national and regional commercial fishing industry meetings, and at the annual meetings of the Commercial Fishing Safety Advisory Committee.

Specific regulatory measures. Several commenters recommended specific regulatory measures we should take (or avoid). They said those measures should focus on compliance documentation (3 commenters), improving fishery management (2 commenters), permitting the use of larger, foreign built vessels (2 commenters), avoiding trip report requirements (2 commenters), posting compliance documentation for crew scrutiny (1 commenter), redefining Boundary Lines to facilitate compliance (1 commenter), minimum safety construction standards for all new CFVs, reserving safety examination duties for Coast Guard personnel rather than marine surveyors (1 commenter), extending documented CFV safety equipment requirements to undocumented CFVs (1 commenter), avoiding licensing commercial fishermen (1 commenter), and confined space entry regulations (1 commenter).

This rule proposes to implement CGAA and CGMTA mandates relating to compliance documentation, recreational vessel construction standards for CFVs of less than 50 feet overall in length, mandatory dockside examinations for certain CFVs, and regulatory parity for both documented and undocumented CFVs; and it proposes to implement the statutory substitution of territorial sea baseline references for Boundary Line references. Our rule does not propose to require trip reports. The Coast Guard has no regulatory responsibility for fishery management, and lacks the authority to license commercial fishermen or to permit the use of foreign-built vessels where that use is prohibited by U.S. law. Neither posting compliance documentation for crew scrutiny, excluding non-Coast Guard personnel from vessel examination duties, nor confined space entry is addressed by CGAA or CGMTA mandates, and therefore all are beyond the scope of the proposed rule, though we may consider them for future regulatory action.

VI. Discussion of CGAA and CGMTA Mandates and the Proposed Rule

The CGAA and CGMTA contain a variety of marine safety provisions. Many of those provisions amend 1988 CFV safety legislation that is codified in 46 U.S.C. Chapter 45, Uninspected Commercial Fishing Industry Vessels. Coast Guard regulations implementing the 1988 legislation were first issued in 1991 and appear in 46 CFR part 28.[16] Statutory civil and criminal penalties are provided for violations of Chapter 45 "or a regulation prescribed under this chapter." See 46 U.S.C. 4507(a). Coast Guard enforcement procedures are described in 33 CFR subpart 1.07. In addition, vessels that violate part 28 regulations or that are operating under unsafe conditions may have their operations restricted or terminated, 46 CFR 28.65, and be subject to other operational controls ordered by a District Commander or Captain of the Port under 33 CFR 160.111.

In many cases the CGAA and CGMTA changes either require or permit the Coast Guard to amend its CFV regulations. This rule proposes to implement those statutory mandates that pertain to CFVs, that took effect upon enactment of the CGAA in October 2010 and the CGMTA in December 2012, and that can be incorporated in Coast Guard CFV regulations without the exercise of any Coast Guard discretion. This rule does not propose to apply any new or existing Coast Guard discretionary authority. We are considering additional regulatory action that would implement the Coast Guard's discretionary authority in the CGAA and CGMTA and improve the safety of commercial fishing vessel operation. Should we take that action, we will first solicit public comment.

Vessel parity. CGAA section 604(a)(2)(A) amends 46 U.S.C. 4502(b)(1), which contains special provisions for subpart C CFVs—those that operate beyond the Boundary Lines and with more than 16 individuals on board, or are fish tender vessels engaged in the Aleutian trade.[17] Until enactment of the CGAA, section 4502(b)(1) applied only to Federally documented CFVs,[18] and not to any of the (typically) smaller CFVs that require only State registration. The CGAA removed that restriction so that subpart C CFVs now can be either documented or undocumented.

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[16] A general summary of statutes and regulations applicable to CFVs, written for the benefit of the CFV public, appears at *http://www.fishsafe.info/FederalRequirementsCFV2009.pdf.*

[17] 46 CFR 28.200.

[18] *See* 46 CFR 67.7 for what constitutes a documented vessel: "Any vessel of at least five net

This rule proposes to implement the CGAA by revising the subpart C heading and §§ 28.200, 28.205, 28.210, 28.215, 28.225, 28.230, 28.235, 28.240, 28.245, 28.250, 28.255, 28.260, 28.265, and 28.270. Generally, the proposed revisions eliminate language that reflects the previous exclusion of undocumented CFVs from the "subpart C CFV" category.

Some existing subpart C regulatory requirements are the result of prior Coast Guard discretionary determinations that are necessary for the safety of the documented CFVs to which subpart C formerly was restricted. It may make sense now to extend those same requirements to undocumented CFVs, but because this proposed rule relies exclusively on CGAA and CGMTA mandates and not use of Coast Guard discretionary authority, we cannot make that determination at this time. Where this is the case, the rule proposes to amend the regulation to clarify that, at least for now, it would continue to apply only to documented subpart C CFVs.

Before the CGAA was enacted, 46 U.S.C. 4502(a) mandated only basic safety equipment for all CFVs. The Coast Guard had discretionary authority to require additional safety equipment, but only if a CFV met special conditions defined elsewhere in section 4502. CGAA section 604(a)(1)(A) amends section 4502(a) so that it, too, now gives the Coast Guard discretionary authority to require additional equipment on any CFV, if we determine that "a risk of serious injury exists that can be eliminated or mitigated by that equipment." Because such a determination would exercise our discretionary authority, it is beyond the scope of this proposed rule, which is limited to implementing CGAA and CGMTA mandates. We may exercise that discretion in future rulemakings. To that end, we request public comment identifying the types or operational characteristics of CFVs that are at risk of serious injury, and identifying equipment that can eliminate or mitigate that risk and that the Coast Guard should require by regulation.

Substitution of baseline for Boundary Line criteria. Special provisions in 46 U.S.C. 4502(b) pertain to the subset of CFVs that operate relatively far from shore, or with more than 16 persons onboard, or that are Aleutian Trade fish tender vessels. This subset is subject to special regulatory requirements contained in 46 CFR part 28, subpart C. Prior to enactment of the CGAA, section 4502(b) defined the relevant distance from shore as "beyond the Boundary Line." The location of the Boundary Line varies by distance from the coastline around the country.[19] CGAA section 604(a)(2)(B) amends 46 U.S.C. 4502(b)(1)(A) by replacing the statutory Boundary Line with "3 nautical miles from the baseline from which the territorial sea of the United States is measured or beyond 3 nautical miles from the coastline of the Great Lakes." As defined in 33 CFR 2.20, the territorial sea baseline is "the line defining the shoreward extent of the territorial sea of the United States drawn according to the principles, as recognized by the United States, of the Convention on the Territorial Sea and the Contiguous Zone . . . and the 1982 United Nations Convention on the Law of the Sea (UNCLOS). . . . Normally, the territorial sea baseline is the mean low water line along the coast of the United States." Generally, navigation charts mark the three-nautical mile distance (the "3-mile line") from the baseline.

This rule proposes to update references, in the table to 46 CFR 28.110, to the lifesaving devices required by subpart C. It proposes to replace "Boundary Line" with "3-mile line" references.

Survival craft. In two separate provisions, the CGAA provided that a survival craft must ensure "that no part of a person is immersed in water" ("non-immersibility"). The first provision, CGAA section 604(a)(2)(C), amended 46 U.S.C. 4502(b)(2)(B) to require non-immersible craft on subpart C CFVs. Second, section 609 had added 46 U.S.C. 3104 to require non-immersible craft on any vessel subject to Coast Guard inspection or regulation, including all CFVs.[20] As a result of later legislation, however, section 309 no longer applies to any CFV.[21] In this rule, we propose to amend 46 CFR 28.120 and 28.130 to give effect to section 604's non-immersibility provision.

Records. CGAA section 604(a)(3) amends 46 U.S.C. 4502(f) to require that an individual in charge of any subpart C vessel keep a record of equipment maintenance and required instruction and drills. The rule proposes to amend 46 CFR 28.200 by requiring these records to be kept for three years, the maximum retention period ordinarily required by the Paperwork Reduction Act of 1995.[22] We request comments on further specifications for this record retention requirement.

Vessel examinations. CGAA section 604(a)(3), as amended by CGMTA section 305(a), amends the dockside safety examination provisions of 46 U.S.C. 4502(f). The 1988 legislation added section 4502(f), requiring the Coast Guard to examine at least once every two years, at dockside, all fish processing vessels and Aleutian Trade fish tenders, and to issue a certificate to each successfully examined vessel to show that it complies with all 46 U.S.C. Chapter 45 requirements and 46 CFR part 28 implementing regulations.

Our current dockside examination program was developed after we issued our 1991 regulations to implement the 1988 legislation.[23] Our FishSafe Web site provides CFV owners, operators, and personnel with information about dockside examinations.[24] In general, examinations check for a vessel's lifesaving equipment, documentation, bridge and engine room equipment, and other miscellaneous required items. In addition to providing examinations for the fish processors and Aleutian Trade fish tenders that the 1988 legislation required them to, we encouraged other CFV owners and operators to obtain dockside examinations voluntarily. Whether mandatory or voluntary, we

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tons which engages in the fisheries on the navigable waters of the United States or in the Exclusive Economic Zone, or coastwise trade, unless exempt under § 67.9(c), must have a Certificate of Documentation bearing a valid endorsement appropriate for the activity in which engaged."

[19] *See* Coast Guard regulations prescribing those variations at 46 CFR part 7.

[20] As subsequently amended by sec. 303 of the CGMTA, sec. 609 of the CGAA gave us discretionary authority to authorize the continued use, until February 26, 2016, of survival craft that cannot ensure non-immersibility ("older survival craft"), if we approved them under the applicable subpart of 46 CFR part 160 before 2010, and if the person in charge of the CFV determined under 46 CFR 28.140 that they remain in serviceable condition. Between 2010 and February 2016 we granted that authorization to any CFV to which the non-immersibility requirements applied.

[21] The Coast Guard Authorization Act of 2015, Pub. L. 114–120, amended 46 U.S.C. 3104 by limiting its applicability to passenger vessels only, thereby removing any CFV from its coverage and leaving only the non-immersibility language of 46 U.S.C. 4502(b)(2)(B) in place for subpart C CFVs. Despite the removal of non-immersion requirements for non-subpart C vessels, should we find that non-immersible survival craft could provide substantial safety benefits for those vessels, using our discretionary regulatory authority we could require them in a separate future regulatory action.

[22] 44 U.S.C. 3501–3520.

[23] *See* Commandant Instruction 16711.13B, "Implementation of Commercial Fishing Industry Vessel Regulations," Aug. 17, 1995.

[24] *See http://www.fishsafe.info/.* Several pages on that Web site are referenced in footnotes to this discussion.

issue a dated Commercial Fishing Vessel Safety Decal to any CFV that successfully completes its dockside examination. The decal indicates that the dockside examiner has found the CFV to be in compliance with all applicable Federal laws, not just 46 U.S.C. Chapter 45 and 46 CFR part 28. Many CFVs benefit from having this decal; if they operate in fisheries frequented by endangered or threatened marine species, they may be required under National Marine Fisheries Service (NMFS) regulations[25] to have a NMFS-approved observer onboard. NMFS regulations[26] prohibit observers from going or staying onboard any CFV that does not display a valid decal. Thus, by 2010, dockside examinations were a well-developed and familiar feature of our CFV safety program.[27]

Against this backdrop, CGAA section 604(a)(3) left the dockside examination requirement of 46 U.S.C. 4502(f) unchanged, except to extend the requirement to any CFV (including fish processors and Aleutian Trade fish tenders) subject to section 4502(b) and regulated under 46 CFR part 28, subpart C. We interpret section 604(a)(3) as expressing Congress's intent for us to take the same well-developed and familiar dockside examination program that originally applied to fish processors and Aleutian Trade fish tenders, and apply it to a broader CFV population. The first examination under the new provisions were required to take place no later than October 15, 2015. Under 46 U.S.C. 2117, the Coast Guard can order the termination of a CFV's operation, if it fails to carry a valid certificate of compliance to demonstrate successful completion of the dockside examination.

This proposed rule would add 46 CFR 28.201(a) to incorporate the new subpart C CFV dockside examination requirement. Because this proposed rule's regulatory text would be limited to the mandatory language of the CGAA and the CGMTA, section 28.201(a) provides few details to guide vessel owners and operators on how to request examinations. We are considering future regulatory action to specify a procedure, and would first submit any proposed action to the public for comment. For now, CFV owners and operators who are subject to the vessel examination requirement can demonstrate compliance with the examination requirement by displaying a current, valid safety decal, by having a Form CG–5587 signed by a Coast Guard examiner, or by having a signed letter of compliance from an accepted third-party organization, such as a marine surveyor, as proof that the vessel has passed an examination and is compliant with current regulations. Owners and operators can contact their local Coast Guard Sector, Marine Safety Unit, or Field Office to arrange for an examination or to obtain more information,[28] or they can request the examination online.[29]

Even though CGMTA section 305(a) lengthened the interval for mandatory dockside examinations from two years to five years, we continue to encourage all CFV owners and operators to obtain dockside examinations at least once every two years, voluntarily, whether or not their vessels are subject to the legislative mandate.

Training. CGAA section 604(a)(4) adds 46 U.S.C. 4502(g), which requires an individual in charge of a subpart C CFV to pass a training program. The training program must recognize and give credit for recent CFV experience, and must cover seamanship, stability, collision prevention, navigation, fire-fighting and prevention, damage control, personal survival, emergency medical care, emergency drills and communication, and weather. Section 4502(g) mandates that a certificate be issued upon successful completion of the training, and requires refresher training every 5 years. Finally, section 4502(g) requires the Coast Guard to establish an electronic database listing individuals who have completed the training.

The proposed rule proposes no action with respect to section 4502(g), because before we can enforce its training requirement, we must first use our discretionary authority to determine how to recognize and give credit for CFV experience, and develop the specific items that training covers, within the broad subject areas listed in the statute. We intend to do so in a future regulatory action that, likely, will propose an amendment to 46 CFR 28.270. In the meantime, and for better clarity, we are making a nonsubstantive change to § 28.270, by moving the substance of the "Note" currently appearing at the end of the section, so that it now serves as introductory language at the beginning of the section.

Construction standards for smaller vessels. CGAA section 604(a)(4) adds 46 U.S.C. 4502(h), which mandates that each subpart C CFV less than 50 feet overall in length and built after January 1, 2010 must be constructed so as to provide a level of safety equivalent to the level provided by recreational vessel standards established under 46 U.S.C. 4302. Those standards are contained in Coast Guard regulations in 33 CFR part 183, and the Coast Guard regularly uses its delegated authority under 46 U.S.C. 4305 to exempt manufacturers from particular part 183 standards that are not essential for safety given a vessel's specific characteristics. The part 183 standards require most recreational vessels (including any vessel that would be suitable for CFV use) to—

- Observe safe loading requirements;
- Observe horsepower capacity limits;
- Provide adequate flotation;
- Meet safe electrical and fuel system standards (except with respect to outboard motors or other portable equipment);
- Provide adequate ventilation for gasoline engines;
- Be equipped with a device to prevent the motor being started when the engine is already in gear; and
- Be equipped with all required navigation lights.

Affected CFVs need not comply with each specific requirement of part 183. For example, as commercial vessels, we do not expect them necessarily to carry the weight and horsepower capacity labels that part 183 requires for vessels in solely recreational use. However, we do expect that all affected CFVs will be able to demonstrate that they provide a level of safety that is equivalent to the level that would be provided if they complied with every part 183 requirement. This rule proposes restating the statutory mandate in 46 CFR 28.202.

Load lines. CGAA section 604(d)(1), as amended by CGMTA section 305(d), limits the existing 46 U.S.C. 5102(b)(3) exemption of all commercial fishing vessels from load line requirements by exempting only vessels built prior to July 1, 2013. Thus, section 604(d)(1) would apply not only to the uninspected CFVs with which this proposed rule is concerned, but also to any inspected fishing vessels—of which there are none at this time. The section 5102(b)(3) exemption now is unavailable to any vessel built after July 1, 2013. Like other commercial vessels, CFVs built after July 1, 2013 need to comply with the existing load line regulations in 46 CFR subchapter E if they are 79 feet or more in length and venture outside the statutory Boundary Line.

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[25] 50 CFR part 222, subpart D.

[26] 50 CFR 600.746 (c), (d).

[27] Regulations providing for dockside examinations appear at 46 CFR 28.710 (fish processing vessels) and 28.890 (Aleutian Trade Act vessels), and are supplemented by the guidance in COMDTINST 16711.13B (1995), available at *http://www.uscg.mil/directives/ci/16000-16999/CI_16711_13B.pdf.*

[28] A copy of the dockside examination booklet is given to operators and owners at the time of the examination and can be retained to demonstrate regulatory compliance should the vessel subsequently be boarded by Coast Guard personnel. The booklet includes a list of the specific items to be examined. *See http://www.uscg.mil/hq/cgcvc/cvc3/references/CFVS_Exam_Booklet_CG-5587_Revised_06_08.pdf.* At the Coast Guard's FishSafe site (*http://www.fishsafe.info/*), a prominently displayed link to *http://www.uscg.mil/d13/cfvs/DocksideExams/vFinal.swf* directs CFV personnel to the Commercial Fishing Vessel Checklist Generator, which helps personnel prepare for a dockside exam. In response to answers that personnel supply about their vessel and its operations, the Checklist Generator provides information about the specific items examiners will check. The Checklist Generator also provides links to regulations and other official references related to each item.

[29] *See http://www.fishsafe.info/docksideexamrequest.htm.*

The proposed rule would add 46 CFR 28.170 to require each fishing vessel built after July 1, 2013, to be assigned a load line in accordance with 46 CFR subchapter E if it is 79 feet in length or greater and operates outside the Boundary Line. The rule also proposes to amend 46 CFR 28.500 to make it clear that CFV stability regulations continue to apply to certain CFVs, even though those CFVs will be subject to load line requirements as well.

Load lines are also the subject of CGAA section 604(d)(2), which, as amended by CGMTA section 305(d), adds 46 U.S.C. 5103(c). This requires vessels built on or before July 1, 2013 to comply with an alternate load line compliance program developed in cooperation with the industry, if they complete a major conversion after that date. Section 604(d)(2) requires the Coast Guard to issue regulations establishing the alternate load line compliance program, but does not provide a deadline for doing so.

This proposed rule would take no action with respect to new section 5103(c), because before we can enforce its requirement for an alternate load line compliance program, we must first use our discretionary authority to develop the details of that program, in cooperation with industry. We are considering providing those details in a future regulatory action, and would first seek input from appropriate sources and submit any proposed action to the public for comment.

Classing of vessels.[30] CGAA section 604(e)(1), as amended by CGMTA section 305(c), amends 46 U.S.C. 4503, which formerly applied only to fish processing vessels built or converted after July 27, 1990. As amended, section 4503 now applies to those fish processing vessels and also to each subpart C vessel that operates beyond 3 nautical miles from the baseline, is at least 50 feet overall in length, and is built after July 1, 2013. These vessels must meet all survey and classification requirements prescribed by the American Bureau of Shipping (ABS) or another approved organization. The ABS and other organizations have existing requirements that apply to CFVs, and each organization can add or modify those requirements in the future, as they choose.

ABS rules[31] issued in 2001 for steel fishing vessels under 295 feet in length illustrate the requirements an approved organization may provide for CFVs. Under the ABS rules, a vessel must satisfy stability requirements that include—

- An intact stability analysis based on the applicable part of the International Maritime Organization's (IMO's) Resolution A.749(18) Code on Intact Stability for All Types Ships Covered by IMO Instrument, as amended by Maritime Safety Committee Resolution MSC.75(69);
- An inclining experiment or deadweight survey;
- Criteria in IMO Resolution A.168 (ES.IV), with an additional requirement that the vessel have a minimum range of stability of 60 degrees;
- Severe wind and rolling criteria indicated in IMO Resolution A.562(14); and
- Addressing specified design and operating factors that affect stability.

In addition, the ABS rules require a vessel to meet specifications for—

- Fish hold bulkhead design;
- Local strengthening of shell and deck plating;
- Bulwarks, rails, ports, portlights, and ventilators;
- Freeboard and draft marks;
- Cargo handling equipment; and
- Miscellaneous specifications for wire rope, equipment operability under inclined conditions, liquid petroleum gas, electrical installation, and refrigeration.

The proposed rule would add 46 CFR 28.201(b) and (c) to incorporate the new vessel classing requirements.

Subpart C vessels of at least 50 feet overall in length and built on or before July 1, 2013 will eventually be required by CGAA section 604(e)(1), as amended by CGMTA section 305(c), to comply with an alternate safety compliance program. CGAA section 604(f) requires us to complete the program's development by January 1, 2017.

The proposed rule would take no action with respect to the new alternative safety compliance program, because we must use our discretionary authority to undertake the required cooperation with industry to develop the alternate safety compliance program. This will be the subject of future regulatory action.

Termination of unsafe operations. CGAA section 608 adds new 46 U.S.C. 2117, which expands the Coast Guard's authority to terminate a CFV's operation when we determine that unsafe conditions exist. Section 2117 authorizes a boarding officer to remove any certificate that the boarded vessel is required to possess, if the boarding officer finds that the vessel is not in compliance with the terms of the certificate. Loss of the certificate then becomes, in itself, reason to terminate the vessel's voyage. This proposed rule would amend 46 CFR 28.65(a) to incorporate the new termination provisions and leaves section 28.65(b) unchanged, but it would remove section 28.65(c) because its presence is redundant and could be confusing, in light of the revision of section 28.65(a).

Miscellaneous. CGAA section 604(a)(2)(D) through (G) amend 46 U.S.C. 4502(b)(2)(D) through (G) with respect to each subpart C vessel. Subpart C vessels now must have marine radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities; navigation equipment, including compasses, nautical charts, and publications; first aid equipment and medical supplies sufficient for the size and area of operation of the vessel; and ground tackle sufficient for the vessel. This type equipment must be adequate for the size of the vessel and where the vessel operates. The proposed rule would reflect these changes in 46 CFR 28.245, 28.225, 28.210, and 28.235 respectively. We request comments on further specifications for this equipment requirement.

We also propose revising the authority line for 46 CFR part 28, to more fully state the sources of our authority to issue the regulations appearing in that part.

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[30] Sec. 318(a) of the Coast Guard Authorization Act of 2015, Pub. L. 114–120, changed the applicability of classing requirements for CFVs. The 2010 and 2012 legislation extended the classing requirement to CFVs of 50 feet or more in length and built before July 1, 2013. The 2015 Act exempts from that requirement CFVs of at least 50 and not more than 79 feet overall in length, and built after Feb. 8, 2016, provided their construction is overseen by a State-licensed naval architect or marine engineer, and their design "incorporates standards equivalent to those prescribed by a classification society . . . or another qualified organization . . . ." This NPRM does not incorporate any of the 2015 provisions, which must be reflected in our regulations through future regulatory action.

[31] Rules for Building and Classing Steel Vessels Under 90 Meters (295 Feet) in Length (2012), ch. 12: Fishing Vessels.

Table. Table 9 sequentially lists the regulations we would add or amend in this proposed rule, and summarizes how the CGAA and CGMTA affected the regulation.

TABLE 9—46 CFR SECTIONS AFFECTED BY PROPOSED RULE

46 CFR section	Heading	Related statutory section(s)	Related statutory topic(s)
28.65	Termination of unsafe operations	CGAA 608	Termination of unsafe operations.
28.110	Life preservers or other personal flotation devices..	CGAA 604(a)(2)(B)	Substitution of baseline for Boundary Line criteria.
28.120	Survival craft[32]	CGAA 604(a)(2)(C); CGMTA 303	Survival craft.
28.130	Survival craft equipment	CGAA 604(a)(2)(C); CGMTA 303	Survival craft.
28.170	Load lines	CGAA 604(d); CGMTA 305	Load lines.
Subpart C heading	Old: Requirements for vessels that operate beyond the Boundary Lines or with more than 16 individuals on board, or for fish tender vessels engaged in the Aleutian Trade.	CGAA 604(a)(2)(A)	Vessel parity.
28.200	Old: Applicability	CGAA 604(a)(2)(A), 604(a)(3)	Vessel parity, Records.
28.201	Examination and certification	CGAA 604(a)(3), 604(e)(1); CGMTA 305.	Vessel examinations, Classing of vessels.
28.202	Construction requirement for smaller vessels.	CGAA 604(a)(4)	Construction standards for smaller vessels.
28.205	Fireman's outfits and self-contained breathing apparatus.	CGAA 604(a)(2)(A)	Vessel parity.
28.210	First aid equipment and training	CGAA 604(a)(2)(A), 604(a)(2)(F)	Vessel parity, Miscellaneous.
28.215	Guards for exposed hazards	CGAA 604(a)(2)(A)	Vessel parity.
28.225	Navigational information	CGAA 604(a)(2)(A), 604(a)(2)(E)	Vessel parity, Miscellaneous.
28.230	Compasses	CGAA 604(a)(2)(A)	Vessel parity.
28.235	Anchors and radar reflectors	CGAA 604(a)(2)(A), 604(a)(2)(G)	Vessel parity, Miscellaneous.
28.240	General alarm system	CGAA 604(a)(2)(A)	Vessel parity.
28.245	Communications equipment	CGAA 604(a)(2)(A), 604(a)(2)(D)	Vessel parity, Miscellaneous.
28.250	High water alarms	CGAA 604(a)(2)(A)	Vessel parity.
28.255	Bilge pumps, bilge piping, and dewatering systems.	CGAA 604(a)(2)(A)	Vessel parity.
28.260	Electronic position fixing devices	CGAA 604(a)(2)(A)	Vessel parity.
28.265	Emergency instructions	CGAA 604(a)(2)(A)	Vessel parity.
28.270	Old: Instruction, drills, and safety orientation.	CGAA 604(a)(2)(A), 604(a)(4); CGMTA 305.	Vessel parity, Training.
28.500	Applicability [of stability regulations]	CGAA 604(d)	Load lines.

VII. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below, we summarize our analyses based on these statutes or executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 ("Regulatory Planning and Review") and 13563 ("Improving Regulation and Regulatory Review") direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The estimated costs of this rulemaking do not exceed the threshold of economic significance (*i.e.*, the rulemaking has an annual effect on the economy of $100 million or more. However, the proposed rule has been designated a "significant regulatory action" under section 3(f) of Executive Order 12866 and therefore it has been reviewed by the Office of Management and Budget. A preliminary Regulatory Analysis (RA) is available in the docket where indicated under the "Public Participation and Request for Comments" section of this preamble.

See part VI of this preamble for a discussion of the proposed rule and see the preliminary RA in our docket for a more detailed discussion of costs, benefits, and alternatives considered. Table 10 summarizes the impacts of this rulemaking.

TABLE 10—SUMMARY OF AFFECTED POPULATION, COSTS, AND BENEFITS OF CONGRESSIONAL MANDATES

Category	Proposed rule
Applicability	U.S. flagged, uninspected commercial fishing vessels (CFVs).
Affected population	36,115 CFVs.
Industry costs * ($ millions, 7% discount rate)	$34.2 million (annualized), $240.3 million (10-year). Not quantified: Potential lost revenues, Potential lost wages.
Government costs * ($ millions, 7% discount rate).	$5.4 million (annualized) $38.2 million (10-year).
Total costs * ($ millions, 7% discount rate)	$39.7 million (annualized), $278.5 million (10-year).

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[32] The Coast Guard Authorization Act of 2015, Pub. L. 114–120, amended 46 U.S.C. 3104 by removing language mandating that we require survival craft on all CFVs to protect occupants against immersion in water. The survival craft provisions of 46 U.S.C. 4502 were unaffected and therefore those provisions continue to apply to subpart C survival craft. The 2015 legislation will be addressed in a future rulemaking.

TABLE 10—SUMMARY OF AFFECTED POPULATION, COSTS, AND BENEFITS OF CONGRESSIONAL MANDATES—Continued

Category	Proposed rule
Benefits ($ millions, 7% discount rate)	$7.1–$9.4 million (annualized), $44.4–$65.5 million (10-year). Not quantified: Benefits from reducing injuries, property losses and environmental damage from oil spills.

* Please refer to the preliminary RA in the docket for details.

A summary of the RA follows:

The 2010 CGAA and the 2012 CGMTA make numerous, significant changes to Chapter 45 of 46 U.S.C., "Uninspected Commercial Fishing Industry Vessels." These new requirements build on the requirements set forth in the Commercial Fishing Industry Vessel Safety Act of 1988. Once implemented through new or amended regulations, the commercial fishing industry should experience enhanced worker and vessel safety from the CGAA and CGMTA changes. The proposed rule would implement only those CGAA and CGMTA provisions that mandate the promulgation of regulations. The proposed rule would revise safety standards by adding or amending regulations in the categories indicated in Table 11.

In addition, uniform safety standards are established for all fishing vessels for some requirements, particularly those vessels operating beyond 3 nautical miles of the baseline of the territorial sea or coastline of the Great Lakes. The Boundary Line is used as the demarcation line for operating area and equipment standards, but it is not uniform around the U.S. coastline. The CGAA amended sections 4502(b)(1)(A) of 46 U.S.C. by deleting the words "Boundary Line" and replacing them with "3 nautical miles from the baseline from which the territorial sea of the United States is measured or 3 nautical miles from the coastline of the Great Lakes."

TABLE 11—PROPOSED RULE REQUIREMENT WITH COST IMPACTS[33]

Rule requirement	Category	Description of changes
(1)	Survival Craft[34]	Establishes requirements for all fishing industry vessels operating beyond 3 nautical miles to carry survival craft that will meet a new performance standard for primary lifesaving equipment. The use of "lifeboats or liferafts" is replaced with "a survival craft that ensures that no part of an individual is immersed in water." This means that lifefloats and buoyant apparatus will no longer be accepted as survival craft on any commercial fishing vessel operating beyond 3 nautical miles. As the CGMTA permitted us to do, we refrained from enforcing this provision between the CGMTA's enactment and February 2016.
(2)	Records	Requires the individual in charge of a vessel operating beyond 3 nautical miles to maintain a record of lifesaving and fire equipment maintenance. It will be incumbent upon the master/individual in charge of the vessel to maintain these records onboard.
(3)	Examinations and Certificates of Compliance.[35]	Requires a dockside safety examination at least once every 5 years for vessels operating beyond 3 nautical miles with the first exam statutorily required by October 15, 2015. A "certificate of compliance" will be issued to a vessel successfully completing the exam. Voluntary exams will continue to be promoted for vessel operating inside 3 nautical miles.
(4)	Classing of Vessels, Third Party.[36]	Requires the survey and classification of a fishing vessel that is at least 50 feet overall in length, built after July 1, 2013, and operates beyond 3 nautical miles.

Affected Population

Based on Marine Information for Safety and Law Enforcement (MISLE) data, there are approximately 75,083 U.S. commercial fishing vessels in the United States. This proposed rule would take regulatory action on vessels operating beyond three nautical miles of the baseline of the territorial sea and the coastline of the Great Lakes. Coast Guard subject matter experts estimate that 36,115 (17,237 documented and 18,878 undocumented) operate beyond the three nautical miles threshold, and are affected by this rulemaking[37]. Each rule requirement applies to a distinct set of vessels based on area of operation and vessel size. (Table 12).

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[33] Please refer to the Regulatory Analysis Section 1.7 *Regulatory Impacts* for discussion on no cost requirements.

[34] The Coast Guard Authorization Act of 2015, Public Law 114–120, amended 46 U.S.C. 3104 by removing language mandating that we require survival craft on all CFVs to protect occupants against immersion in water. The survival craft provisions of 46 U.S.C. 4502 were unaffected and therefore those provisions continue to apply to subpart C survival craft. The 2015 legislation will be addressed in a future rulemaking.

[35] The proposed rule enhances the enforcement of dockside examinations by allowing the termination of vessels that do not obtain the required certification. The costs to acquire and maintain certification is captured under Examinations and Certification of Compliance. There is a potential, non-quantifiable cost if a voyage is terminated due to unsafe operations.

[36] Sec. 318(a) of the Coast Guard Authorization Act of 2015, Public Law 114–120, changed the applicability of classing requirements for CFVs. The 2010 and 2012 legislation extended the classing requirement to CFVs of 50 feet or more overall in length and built before July 1, 2013. The 2015 Act exempts from that requirement CFVs of at least 50 and not more than 79 feet overall in length, and built after Feb. 8, 2016, provided their construction is overseen by a State-licensed naval architect or marine engineer, and their design "incorporates standards equivalent to those prescribed by a classification society. . . or another qualified organization. . . ." This NPRM does not incorporate any of the 2015 provisions, which must be reflected in our regulations through future regulatory action.

[37] The remaining 38,968 vessels are not affected by this rule.

TABLE 12—SUMMARY OF AFFECTED POPULATION BY REGULATORY REQUIREMENT

CGAA/CGMTA requirements	Affected population	Estimated number
(1) Requirement that survival craft ensure that no part of individual is immersed in water.[38]	All vessels that operate beyond 3 NM that currently do not carry survival craft that ensure that no part of individual is immersed in water.	24,771
(2) Requirement to keep records of equipment maintenance and drills/instructions in safety logbook.	All vessels that operate beyond 3 NM	36,115
(3) Requirement for vessels to have dockside exam every 5 years and carry certificate.	All vessels that operate beyond 3 NM	36,115
(4) Vessel 50 feet in length or greater built after 2013 must be classed by third party organization.[39]	New vessels ≥50 ft in length (26 annually) that operate beyond 3 NM.	260

Costs

One-hundred percent of the costs of this rule are Congressionally mandated.

We estimated the total average costs of this rulemaking on industry for a 10-year period as summarized in Table 13.[40]

TABLE 13—PROPOSED RULE INDUSTRY COSTS

[Values in $ millions]

Year	Undiscounted costs	Discounted costs	
		7%	3%
Year 1	$67.97	$63.52	$65.99
Year 2	27.28	23.83	25.72
Year 3	27.37	22.34	25.05
Year 4	27.46	20.95	24.40
Year 5	27.46	19.58	23.69
Year 6	41.48	27.64	34.74
Year 7	27.55	17.16	22.40
Year 8	27.64	16.09	21.82
Year 9	27.72	15.08	21.25
Year 10	27.72	14.09	20.63
Total	329.66	240.28	285.67
Annualized		34.21	33.49

The first-year (initial) undiscounted cost of this rulemaking is $68 million. The 10-year discounted present value cost to industry of the proposed rule is $240.3 million based on a 7-percent discount rate and $285.7 million based on a 3-percent discount rate assuming immediate implementation. The annualized cost to industry is $34.2 million at a 7-percent discount rate. Table 14 presents the costs to industry by requirement, of which "classing of vessels by third party" makes up the majority of the total costs.

TABLE 14—ANNUALIZED PROPOSED RULE INDUSTRY COSTS BY REQUIREMENT CATEGORY

[Values in $ millions]

Proposed rule requirement	10-Year cost			Annualized	
	Undiscounted	7%	3%	7%	3%
(1) Survival Craft[41]	$82.49	$64.15	$73.52	$9.13	$8.62
(2) Records	6.52	4.58	5.56	0.65	0.65
(3) Examination and Certificates of Compliance	27.87	22.31	25.20	3.18	2.95
(4) Classing of Vessel, Third Party	212.77	149.24	181.39	21.25	21.26
Total for Authorization Act Requirements	329.66	240.28	285.67	34.21	33.49

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[38] The Coast Guard Authorization Act of 2015, Public Law 114–120, amended 46 U.S.C. 3104 by removing language mandating that we require survival craft on all CFVs to protect occupants against immersion in water. The survival craft provisions of 46 U.S.C. 4502 were unaffected and therefore those provisions continue to apply to subpart C survival craft. The 2015 legislation will be addressed in a future rulemaking.

[39] Sec. 318(a) of the Coast Guard Authorization Act of 2015, Public Law 114–120, changed the applicability of classing requirements for CFVs. The 2010 and 2012 legislation extended the classing requirement to CFVs of 50 feet or more overall in length and built after July 1, 2013. The 2015 Act exempts from that requirement CFVs of at least 50 and not more than 79 feet overall in length, and built after Feb. 8, 2016, provided their construction is overseen by a State-licensed naval architect or marine engineer, and their design "incorporates standards equivalent to those prescribed by a classification society . . . or another qualified organization. . . ." This NPRM does not incorporate any of the 2015 provisions, which must be reflected in our regulations through future regulatory action.

[40] We discounted the costs at 7 and 3 percent as set forth by guidance in the Office of Management and Budget's Circular A–4.

[41] The Coast Guard Authorization Act of 2015, Public Law 114–120, amended 46 U.S.C. 3104 by removing language mandating that we require survival craft on all CFVs to protect occupants against immersion in water. The survival craft provisions of 46 U.S.C. 4502 were unaffected and therefore those provisions continue to apply to subpart C survival craft. The 2015 legislation will be addressed in a future rulemaking.

We anticipate that the government will incur labor and travel costs to conduct dockside CFV safety exams. We estimate the total present value cost to government over the 10-year period of analysis to be $38.2 million discounted at 7 percent and $46.4 million discounted at 3 percent (Table 15). Annualized government costs are about $5.4 million under both 7-percent and 3-percent discount rates.

TABLE 15—PROPOSED RULE—TOTAL GOVERNMENT COSTS

[Values in $ millions]

Year	Undiscounted costs	Discounted costs	
		7%	3%
Year 1	$5.44	$5.09	$5.28
Year 2	5.44	4.75	5.13
Year 3	5.44	4.44	4.98
Year 4	5.44	4.15	4.83
Year 5	5.44	3.88	4.69
Year 6	5.44	3.63	4.56
Year 7	5.44	3.39	4.42
Year 8	5.44	3.17	4.30
Year 9	5.44	2.96	4.17
Year 10	5.44	2.77	4.05
Total	54.41	38.22	46.42
Annualized		5.44	5.44

We estimate the combined total 10-year present value cost of the rulemaking to industry and government at $278.5 million, discounted at 7 percent, and $332.1 million, discounted at 3 percent (Table 16). The combined annualized costs to industry and government are $39.7 million at 7 percent and $38.9 million at 3 percent. The expected annual effect on the economy of the proposed rule would not exceed $100 million in the first or any subsequent year of implementation.

TABLE 16—SUMMARY OF COST BY REGULATORY REQUIREMENT

[Values in $ millions]

Proposed rule requirement	10-Year cost			Annualized	
	Undiscounted	7%	3%	7%	3%
(1) Survival Craft[42]	$82.49	$64.15	$73.52	$9.13	$8.62
(2) Records	6.52	4.58	5.56	0.65	0.65
(3) Examination and Certificates of Compliance	27.87	22.31	25.20	3.18	2.95
(4) Classing of Vessel, Third Party[43]	212.77	149.24	181.39	21.25	21.26
Government Costs:					
Examinations and Certificates of Compliance	54.41	38.22	46.42	5.44	5.44
Total for Authorization Act Requirements	384.07	278.50	332.09	39.65	38.93

Benefits

In this rulemaking, the Coast Guard is proposing to implement CFV safety standards mandated by Congress in the 2010 CGAA and 2012 CGMTA. These mandates are collectively intended to reduce the risk of future casualties, and if a casualty occurs, to minimize the adverse impacts to crew and increase the likelihood of survival and rescue. To reduce the risk of casualties and to mitigate the adverse consequences, the Coast Guard adopts comprehensive safety requirements that are intended to increase compliance with current regulations and increase the operational awareness and preparedness of CFV owners and masters. The primary benefits resulting from increased safety include reductions in the risk of fatalities, property loss, and environmental damage that can be caused by lost and damaged CFVs. Table 17 presents the benefits resulting from improved CFV safety.

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[42] The Coast Guard Authorization Act of 2015, Public Law 114–120, amended 46 U.S.C. 3104 by removing language mandating that we require survival craft on all CFVs to protect occupants against immersion in water. The survival craft provisions of 46 U.S.C. 4502 were unaffected and therefore those provisions continue to apply to subpart C survival craft. The 2015 legislation will be addressed in a future rulemaking.

[43] Sec. 318(a) of the Coast Guard Authorization Act of 2015, Public Law 114–120, changed the applicability of classing requirements for CFVs. The 2010 and 2012 legislation extended the classing requirement to CFVs of 50 feet or more overall in length and built after July 1, 2013. The 2015 Act exempts from that requirement CFVs of at least 50 and not more than 79 feet overall in length, and built after Feb. 8, 2016, provided their construction is overseen by a State-licensed naval architect or marine engineer, and their design "incorporates standards equivalent to those prescribed by a classification society . . . or another qualified organization . . . ." This NPRM does not incorporate any of the 2015 provisions, which must be reflected in our regulations through future regulatory action.

TABLE 17—PROPOSED RULE BENEFITS OF SAFETY STANDARDS BY CATEGORY

Rule requirement	Category	Benefit(s)
(1)	Survival Craft[44]	Ensures personnel who evacuate in the event of the loss of a vessel are removed from the water, thereby reducing the risk of hypothermia.
(2)	Records	Requires the individual in charge of a vessel operating beyond 3 nautical miles of the base line to maintain onboard a record of equipment maintenance and required instruction and drills. Maintaining records increases accountability and provides a means of determining compliance for many provisions, particularly during Coast Guard vessel boardings and investigations. Maintaining records also assists the vessel operator by reminding him or her that actions are needed to remain in compliance with the rules.
(3)	Examinations and Certificates of Compliance.	Makes current voluntary system of examinations mandatory, thereby ensuring vessel is maintained properly and able to operate in a safe and environmentally sound manner.
(4)	Classing of Vessels, Third Party[45]	Requires survey and classification of a fishing vessel that is at least 50 feet overall in length, built after July 1, 2013, and operating beyond 3 nautical miles of the base line. Vessel classification helps to ensure that a vessel is designed and maintained in a safe manner, reducing the likelihood of all types of mishaps. The classification process includes: The development of standards; technical plan review and design analysis; surveys during construction; source inspection of materials, equipment and machinery; subsequent periodic surveys for maintenance of class; survey of damage, repairs and modifications.

TABLE 18—ADDITIONAL PROPOSED RULE BENEFITS

Authorization Act requirement	Benefits
Dockside examination and vessel certification: A vessel that that was classed before July 1, 2012, must remain subject to the requirements of a classification society.	Clarifies current industry practice and harmonizes regulatory and statutory language.
Requires that vessels built after January 1, 2010, and less than 50 feet overall in length be constructed in a manner that provides a level of safety equivalent to the standards for recreational vessels established under Title 46 U.S.C. 4302.	Clarifies current industry practice and harmonizes regulatory and statutory language.
First aid equipment and training: Substitutes the words “medical supplies sufficient for the size and area of operation of the vessel, which on documented vessels must be in a readily accessible location” for “medicine chest of a size suitable for the number of individuals on board in a readily accessible location”.	Clarifies current industry practice and harmonizes regulatory and statutory language.
First aid equipment and training: Limits applicability to documented vessels. No change from current requirements.	Clarifies current applicability and harmonizes regulatory and statutory language.
Changes to applicability language for: Navigational equipment; Anchors and radar reflectors; General alarm system; High water alarms; Electronic position fixing devices; Emergency Instructions; Instructions, drills, and safety orientation.	Limits applicability to documented vessels. Clarifies current applicability and harmonizes regulatory and statutory language.

In this regulatory assessment, the benefits associated with (1) survival craft and (3) examinations are further evaluated, with monetized estimates developed. Other components are left non-monetized given limitations on casualty data (*e.g.*, limited specificity in casualty investigations).

For the period of 2002–2012, a total of 426 fishermen lost their lives on commercial fishing vessels (Exhibit A). Of those, a total of 205 lives were lost due to vessel loss and 221 lives were lost due to other causes. On an annual basis, an average of 39 fishermen lost their lives per year, with an average of 19 of these fatalities associated with vessel loss. As there is no discernible, consistent trend of fatalities over the time period, we use the average fatalities over the period to represent the projected fatalities without the proposed rule in the future 10-year period covered in this analysis.

During the 2002–2012 period, 851 vessels were lost (Exhibit B), resulting in an estimated property damage of $17.3 million and 13,270 gallons of pollutant spilled. Table 18 summarizes the negative impacts of commercial fishing vessel casualties with fatalities monetized at $9.1 million per fatality and Exhibit C displays average annual monetary damages, of which fatalities make up the overwhelming majority of damages associated with the commercial fishing industry.

To monetize the value of fatalities and those prevented, we use the concept of “value of statistical life” (VSL), which is commonly used in safety analyses. The VSL does not represent the dollar value of a person’s life, but the amount society would be willing to pay to reduce the probability of premature death. We currently use a value of $9.1 million as an estimate of VSL.[46] A $9.1 million VSL does not mean a specific human life is worth $9.1 million, but instead, a $9.1 million VSL means an individual is willing to pay $9.10 to reduce the annual risk of premature death by one in 1,000,000.

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[44] The Coast Guard Authorization Act of 2015, Public Law 114–120, amended 46 U.S.C. 3104 by removing language mandating that we require survival craft on all CFVs to protect occupants against immersion in water. The survival craft provisions of 46 U.S.C. 4502 were unaffected and therefore those provisions continue to apply to subpart C survival craft. The 2015 legislation will be addressed in a future rulemaking.

[45] Sec. 318(a) of the Coast Guard Authorization Act of 2015, Public Law 114–120, changed the applicability of classing requirements for CFVs. The 2010 and 2012 legislation extended the classing requirement to CFVs of 50 feet or more overall in length and built before July 1, 2013. The 2015 Act exempts from that requirement CFVs of at least 50 and not more than 79 feet overall in length, and built after Feb. 8, 2016, provided their construction is overseen by a State-licensed naval architect or marine engineer, and their design “incorporates standards equivalent to those prescribed by a classification society . . . or another qualified organization. . . .” This NPRM does not incorporate any of the 2015 provisions, which must be reflected in our regulations through future regulatory action.

[46] See guidance on the Treatment of the Economic Value of a Statistical Life in U.S. Department of Transportation Analyses, U.S. DOT, 2013, available at *http://www.dot.gov/sites/dot.dev/files/docs/VSL%20Guidance%202013.pdf.*

annual risk of premature death by one in 1,000,000.

Exhibit A: Total Commercial Fishing Fatalities, All U.S. Fishing Vessels (2002-2012).

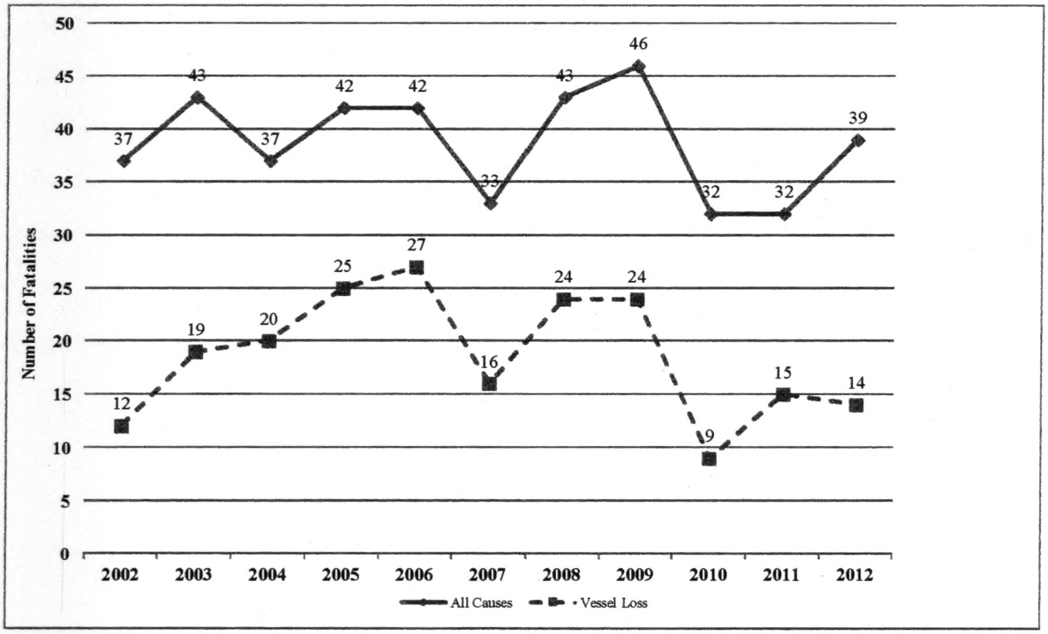


Exhibit B: Total Commercial Fishing Vessels Lost, All U.S. Fishing Vessels (2002-2012).

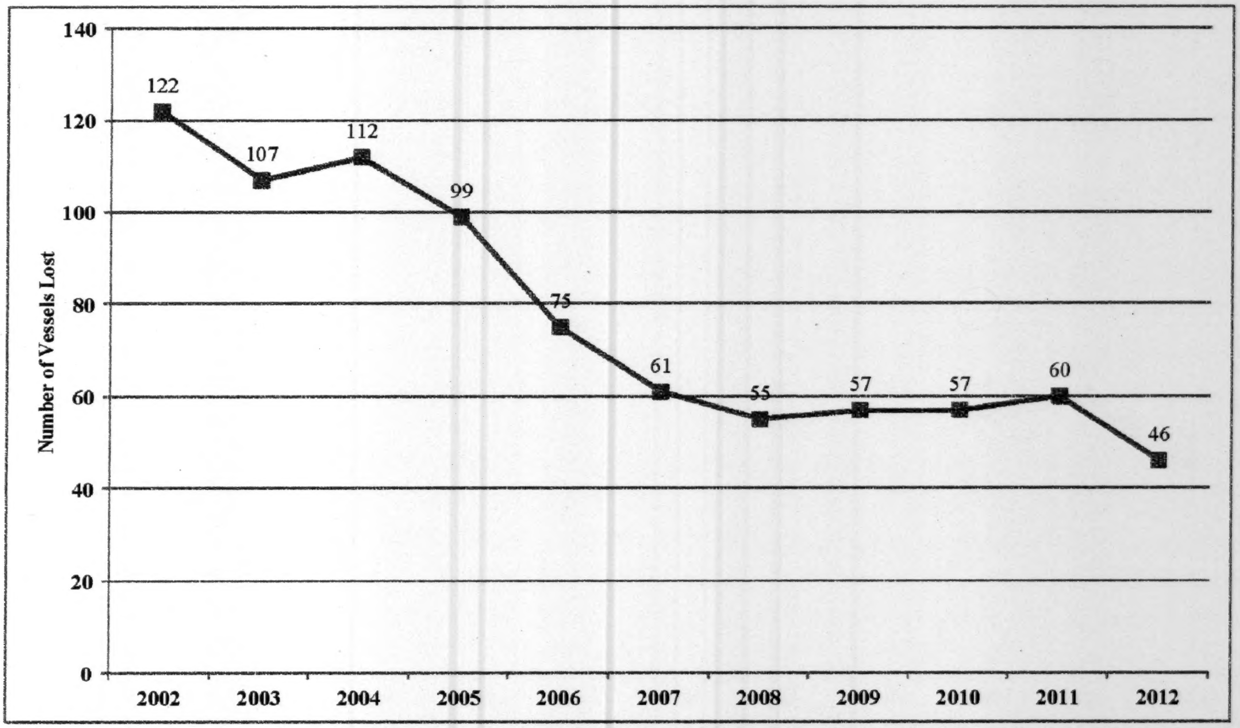


TABLE 19—NEGATIVE IMPACTS FROM CFV INCIDENTS

[2002–2012]

Impact	Monetary evaluation	Total effects	Total monetary damages (in millions)	Average per year	Average monetary damage per year (in millions)
Fatalities from all vessel incidents	$9.1 million per fatality	426	$3,876.6	39	$354.9
Fatalities, from non-vessel loss		221	2,011.1	20	182
Fatalities, resulting from vessel loss		205	1,865.5	19	172.9
Lost Vessels (Property Damage)	Varies	851	17.3	77	1.6
Gallons of Oil Spilled	254 per gallon	13,270	3.4	1,210	0.3

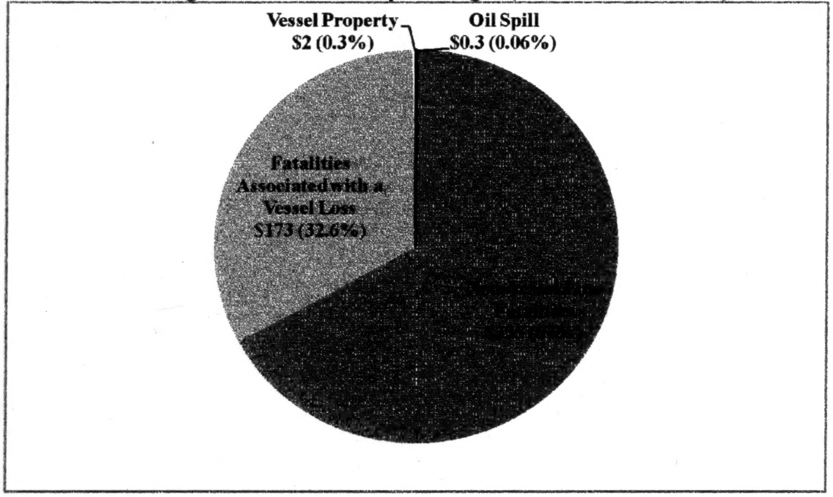
Notes:

(1) Fatality values are based on a $9.1 million value of a statistical life referenced in *Guidance on Treatment of the Economic Value of a Statistical Life in U.S. Department of Transportation Analyses,* U.S. DOT, 2013, available at *http://www.dot.gov/sites/dot.dev/files/docs/VSL%20Guidance%202013.pdf.*

(2) Vessel lost include property and cargo damages as reported in MISLE.

(3) Oil spilled damages are based on a $254 damage per gallon of oil spilled as indicated by *Inspection of Towing Vessels, Notice of Proposed Rulemaking, Preliminary Regulatory Analysis and Initial Regulatory Flexibility Analysis,* USCG–2006–24412, July 2011, available at *http://www.regulations.gov/#!documentDetail;D=USCG-2006-24412-0002.*

Exhibit C: Average Annual Monetary Damages (Values in $ Millions).



As noted above, we develop monetized benefits for two of the requirements (Survival Craft and Dockside Examinations). In addition to the aforementioned, the following categories of benefits have not been captured due to analysis limitations and scope:[47]

Property and environmental damage. The examination requirements have the potential to prevent the loss of vessels. For example, the dockside examination may identify deficiencies, like a non-functioning high water alarm, that, if activated, could allow the crew to respond in a timely manner to avoid vessel loss. Based on MISLE[48] data, the baseline value of property damage due to vessel loss is estimated at $1.6 million per year and the value of oil spill damages is $0.3 million per year. To the extent a vessel loss is prevented, property damage and oil spills may also be reduced. Also, search and rescue costs and other response costs (such as emergency transportation to hospitals) could be reduced if a vessel loss is prevented.

Injuries. Survival craft and dockside examination provisions could also reduce injuries. According to the National Institute for Occupational Safety and Health, in Alaska during the period of 1991–2002, 798 fishermen were hospitalized for treatment of severe injuries received during fishing activities, an average of 66.5 injuries per year in Alaska alone. These severe injuries can lead to lifetime consequences and include injuries that result in amputation and paralysis. During a vessel loss event, it is not uncommon for survivors to suffer from exposure and hypothermia due to immersion in water or trauma injuries suffered during the sinking. The dockside examinations could prevent vessel losses while the survival craft could reduce the risk of exposure and hypothermia injuries after the vessel is lost.

The quantitative analysis of benefits entailed: A review of historical commercial fishing vessel casualties to determine if they were within the affected population as set by the proposed rule, an assessment of the applicability of each proposed rule feature as it relates to the risk reduction when compared to historical casualties, and an estimation of the effectiveness of each proposed rule feature as decided by subject matter experts.

The primary and high estimate of benefits for each category is summarized in Table 19. The estimate of monetized annualized benefits is $7.1 million at a 7 percent discount rate. The high estimate of benefits is $9.4 million at 7 percent discount rate.

The high estimates are based on an extrapolation from casualty reports that contain detailed information on the cause of the casualty to casualties that contain limited information on the cause of the casualty. With commercial fishing vessels casualties, it is not unusual for a vessel to be lost at sea with no survivors. In these cases, the casualty report may contain limited information as to the causal factors for the loss to be able to make a confident determination of the potential for risk reduction. Based on our review of the casualty reports, we found approximately 20 percent of the cases contained too limited information to attempt an estimation of potential benefits for use in the primary estimate. To the extent these limited information casualties are similar to those that contain more detailed information, we are likely to underestimate benefits. We have included these limited information casualties only in a high estimate and not in our primary benefits estimate to show the a possible range of quantified benefits.

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[47] The benefit analysis is achieved on a per vessel basis. That is, the benefits estimated reflect the historical casualty incidents that might have been prevented if the proposed rule were in place. In order to estimate the reduction in property and environmental damage, we would need an algorithm that detailed when the requirements of the proposed rule would reduce the likelihood of vessel loss, requiring a significant amount of analytical effort. Given that property and environmental damages makes up a small fraction (0.58%) of the total annual damages (Exhibit ES–3), the CG sought to focus on the benefits associated with fatalities.

[48] The Marine Information for Safety and Law Enforcement (MISLE) is a database system managed and used by the U.S. Coast Guard. MISLE is used to store data on marine accidents, pollution incidents, search and rescue cases, law enforcement activities, and vessel inspections/examinations. The public may access portions of the data contained on the MISLE system through the Coast Guard Maritime Information Exchange at: *https://cgmix.uscg.mil/*.

TABLE 20—SUMMARY OF ANNUALIZED BENEFITS

[7 Percent, $ millions]

Category	Estimation of benefits	
	Primary baseline incidents	Primary + limited information incidents
Survival Craft[49]	$4.8	6.3
Examinations and Certificates of Compliance	2.3	3.1
Total	7.1	9.4

Comparison of Costs and Benefits

The annualized costs to government and industry for the proposed rule over the 10-year period are estimated at $39.7 million at a 7 percent discount rate. The estimate of annualized quantified benefits ranges between $7.1 and $9.4 million, with a primary estimate of monetized annualized benefits of $7.1 million at a 7 percent discount rate. We did not estimate monetized benefits for several requirements, including recordkeeping for equipment maintenance and classing certain newly built vessels. As stated previously, one-hundred percent of the costs of this rule are Congressionally mandated. The Coast Guard does not have the authority to alter the provisions of this rule to lessen the economic impacts of this rule on the fishing industry.

TABLE 21—PROPOSED RULE, SUMMARY OF QUANTIFIED ANNUALIZED COSTS AND ANNUALIZED BENEFITS

[7 Percent, Values in $ millions]

Category	Annualized costs to industry and government	Primary		High		Benefits not captured
		Total annualized benefits	Net annualized benefits	Total annualized benefits	Net annualized benefits	
(1) Survival Craft[50]	$9.1	$4.8	($4.3)	$6.3	($2.8)	Injuries (such as non-fatal hypothermia).
(3) Examination and Certificates of Compliance.	8.6	2.3	(6.3)	3.1	(5.5)	Reduced property and environmental damages, and injuries.
Total	17.70	7.1	(10.6)	9.4	(8.3)	

TABLE 22—PROPOSED RULE, SUMMARY OF PROVISIONS—BENEFITS NOT QUANTIFIED

[7 Percent, Values in $ millions]

Category	Annualized costs to industry and government	Beneficial impacts
(2) Records	$0.65	Enhances ability to determine and track compliance.
(4) Classing of Vessel, Third Party[51]	21.2	Ensures vessel has safe design and is maintained as designed.
Total	21.85	

Breakeven Analysis

We also examined the risk reduction from the total casualty baseline required for the benefits of the proposed rule to exceed the costs (Table 23). Overall, the proposed rule would need to prevent 4.4 fatalities per year for the benefits to equal the costs, a reduction of 23 percent from the baseline of 19 annual casualties resulting from the loss of fishing vessels.

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[49] The Coast Guard Authorization Act of 2015, Public Law 114–120, amended 46 U.S.C. 3104 by removing language mandating that we require survival craft on all CFVs to protect occupants against immersion in water. The survival craft provisions of 46 U.S.C. 4502 were unaffected and therefore those provisions continue to apply to subpart C survival craft. The 2015 legislation will be addressed in a future rulemaking.

[50] The Coast Guard Authorization Act of 2015, Public Law 114–120, amended 46 U.S.C. 3104 by removing language mandating that we require survival craft on all CFVs to protect occupants against immersion in water. The survival craft provisions of 46 U.S.C. 4502 were unaffected and therefore those provisions continue to apply to subpart C survival craft. The 2015 legislation will be addressed in a future rulemaking.

[51] Sec. 318(a) of the Coast Guard Authorization Act of 2015, Public Law 114–120, changed the applicability of classing requirements for CFVs. The 2010 and 2012 legislation extended the classing requirement to CFVs of 50 feet or more overall in length and built before July 1, 2013. The 2015 Act exempts from that requirement CFVs of at least 50 and not more than 79 feet overall in length, and built after Feb. 8, 2016, provided their construction is overseen by a State-licensed naval architect or marine engineer, and their design "incorporates standards equivalent to those prescribed by a classification society . . . or another qualified organization . . . ." This NPRM does not incorporate any of the 2015 provisions, which must be reflected in our regulations through future regulatory action.

TABLE 23—PROPOSED RULE, BREAKEVEN ANALYSIS (7 PERCENT, $ MILLIONS).

Proposed rule requirement	Annualized costs to industry and government	Fatalities prevented to breakeven	Percent reduction in total fishing vessel loss casualties to breakeven
(1) Survival Craft	$9.10	1.0	5.3
(2) Records	.70	0.1	0.4
(3) Examination and Certificates of Compliance	8.6	0.9	5
(4) Classing of Vessel, Third Party[52]	21.30	2.3	12.3
Total for Authorization Act Requirements	39.7	4.4	23

Alternatives

Consistent with Executive Order 12866, an agency shall identify and assess available alternatives to direct regulation. The agency should consider a range of potentially effective and reasonably feasible regulatory alternatives. We analyzed and assessed the effectiveness of the following alternatives:

- Alternative 1: No Action;
- Alternative 2: Implementation through Guidance;
- Alternative 3: Regulation to Align Non-Discretionary Requirements with Statute;
- Alternative 4: Discretionary Stringency in Dockside Examination Frequency; and
- Alternative 5: Discretionary Implementation of Person-in-Charge Training.

We conducted a screening of alternatives based on an assessment of the negative and positive impacts. Table 24 presents the results, which indicate that Alternative 3 is the preferred alternative. In this proposed rule, the Coast Guard is implementing Alternative 3. Alternative 3 harmonizes Coast Guard regulations with statutes to eliminate uncertainty and enhance clarity. Under Alternatives 1 and 2, Coast Guard regulations and applicable statutes would continue to be inconsistent, leading to confusion and uncertainty, particularly regarding enforcement authority. Alternatives 4 and 5 have the potential to increase safety and costs, but both require the exercise of discretionary authority and should be subject to notice and public comment before implementing.

TABLE 24—SCREENING OF ALTERNATIVES

Alternatives	Description	Negative impacts	Relative impacts
1	No Action	CG regulations would be inconsistent with Federal mandate, generating uncertainty about compliance and enforcement. Costs to industry would be incurred to comply with Statute.	Safety improvements would be diminished due to confusion and uncertainty about compliance and enforcement.
2	Implementation through Guidance.	CG regulations would be inconsistent with Federal mandate, generating uncertainty about compliance and enforcement. Costs to industry would be incurred to comply with Statute.	Guidance could reduce some confusion, but uncertainty about compliance and enforcement would remain.
3	Regulation to Align Non-Discretionary Requirements with Statute.	Costs to industry would be incurred to comply with regulations.	Increased safety due to survival craft, dockside examinations, and the classing of new vessels. Harmonizes CG regulations with Statute to eliminate uncertainty about compliance and enforcement.
4	Discretionary Stringency in Dockside Examination Frequency.	Added costs due to more frequent examinations Requires exercise of discretionary authority	Increased safety resulting from the more timely identification of condition and compliance deficiencies. Decrease in the incidence of deficiencies.
5	Discretionary Implementation of Person-in-Charge Training.	Added costs due to person in charge training Requires exercise of discretionary authority	Increased safety resulting from training on seamanship, stability, collision prevention, navigation, fire fighting and prevention, damage control and emergency communication, personal survival, emergency medical care, emergency drills, and weather.

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[52] Sec. 318(a) of the Coast Guard Authorization Act of 2015, Public Law 114–120, changed the applicability of classing requirements for CFVs. The 2010 and 2012 legislation extended the classing requirement to CFVs of 50 feet or more overall in length and built before July 1, 2013. The 2015 Act exempts from that requirement CFVs of at least 50 and not more than 79 feet overall in length, and built after Feb. 8, 2016, provided their construction is overseen by a State-licensed naval architect or marine engineer, and their design "incorporates standards equivalent to those prescribed by a classification society . . . or another qualified organization . . ." This NPRM does not incorporate any of the 2015 provisions, which must be reflected in our regulations through future regulatory action.

B. Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), requires Federal agencies to consider the potential impact of regulations on small businesses, small governmental jurisdictions, and small organizations during the development of their rules.

The Coast Guard prepared an analysis on the potential economic impacts of this proposed rule on small entities. A combined Regulatory Analysis and Initial Regulatory Flexibility Analysis discussing the impact the proposed rule would have on small entities is available in the docket where indicated under the "Public Participation and Request for Comments" section of this preamble.

Based on the current data provided by the Coast Guard's MISLE database, we estimate that there are potentially 16,730 owners of 17,237 documented commercial fishing vessels. As we do not have data that distinguishes those vessels that operate beyond and within 3 nautical miles of the baseline, we use documented fishing vessels as a proxy for the 36,115 vessels that operate beyond 3 nautical miles for the purposes of determining the ownership characteristics and revenues of small entities under the proposed rule. Operations and fisheries for undocumented vessels operating beyond 3 nautical miles are similar to small documented vessels that operate beyond 3 nautical miles. Although by definition undocumented vessels are smaller than documented vessels, for operational purposes a 4.9 net ton vessel is very similar in equipment, manning, operations and fisheries to a 5 net ton vessel, but one is classified as undocumented (≤4.9 net tons) and the other is documented (≥5 net tons). Given that the operational area, defined by operating beyond 3 nautical miles of the baseline, indicates similar operations and fisheries, and because smaller vessel size is inversely related to operating beyond three nautical miles, using documented vessels to represent impacts to small entities is a reasonable proxy and is the best data available. As such, undocumented vessels that operate beyond three nautical miles are assumed to be represented within the revenue distribution of documented vessels and other vessel characteristics (age, structural integrity, etc.).

In our review of the MISLE ownership data for documented fishing vessels, we found 1,612 vessel owners of 1,615 vessels that had a non-business organization type. Of these, 1,562 vessels are owned by an organization that had an "unknown" organization type, 4 are owned by the Federal government, 45 are owned by trusts, and 4 are owned by non-profits.

Of the remaining documented commercial fishing vessels, almost all (over 99 percent) are owned by small businesses, as determined by SBA small business size standards.[53] Many of the small businesses are classified as NAICS 141111 (Finfish) and 141112 (Shellfish), although many have a non-fishing primary NAICS classification. Of this target population, we examined publicly available revenue information on 360 vessel owners that owned 762 vessels. We assume that the remaining 3,273 owners of 3,375 vessels (for which revenue information was unavailable) are small businesses for the purpose of this analysis. Of those 360 owners for which revenue and employment information was available, we found 17 entities owning 204 vessels that exceeded the small business thresholds for their relevant NAICS code. The remaining 343 entities owning the remaining 558 vessels are small businesses as defined by the NAICS thresholds.

Table 25 summarizes the proposed rule cost on a per vessel basis. If a vessel incurs all of the cost items, the maximum total initial and recurring costs are $812,358 and $11,118 respectively. We estimate that the 260 vessels that undergo classing would incur the maximum cost, representing less than 1 percent of the affected population. To reflect a more likely cost impact on the typical commercial fishing vessel, we calculate a weighted cost using a Monte Carlo simulation described in Appendix H of the Regulatory Impact Analysis. Assigning the full burden of the cost to the remaining population of 35,855 would distort the estimated regulatory burden[54]. The weighted implementation and recurring cost, on a per vessel basis, for requirements (1), (2), (3), and (4) are $7,643 and $897, respectively. For the most part, commercial fishing vessel owners own 1 vessel. In our sample, when an entity owns more than 1 vessel, we calculate the cost per entity by multiplying the cost per vessel by the number of vessels owned.

TABLE 25—PROPOSED RULE WEIGHTED AVERAGE COST PER VESSEL

Requirement	Affected population	Weight	Maximum costs		Weighted costs[55]	
			Initial	Recurring	Initial	Recurring
(1) Survival Craft	24,771	68.6%	$1,740	$300	$1,193	$206
(2) Records	36,115	100.0	18	18	18	18
(3) Examinations and Certificates of Completion	36,115	100.0	600	600	600	600
(4) Classing of Vessels, Third Party[56]	260	0.7	810,000	10,200	5,831	73
Total Cost per Vessel			812,358	11,118	7,643	897

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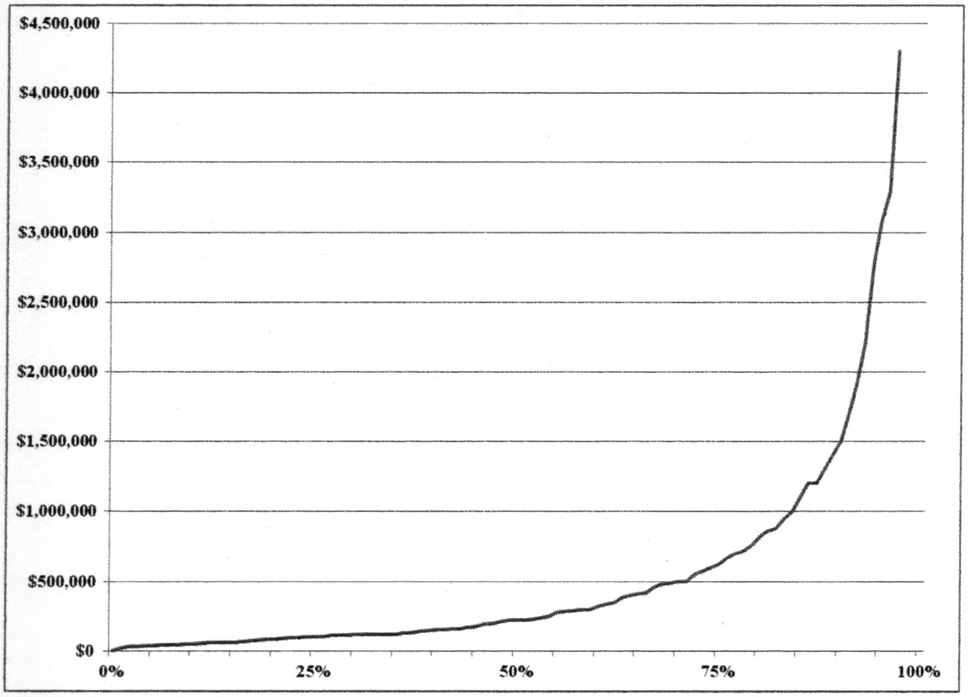
[53] SBA small business standards are based on either company revenue or number of employees. Many companies in our sample have employee numbers determining them small, but we were unable to find annual revenue data to pair with the employee data.

[54] In an effort to capture the impact of requirement "(4) Classing of Vessels, Third Party," we simulated the costs based on probability. Specifically, we used a Monte Carlo simulation to better understand the uncertainty in our costs estimate. For a more detailed discussion, refer to Appendix H.

[55] The weighted costs is a calculation of a vessel's cost in which each regulatory requirement is proportionately weighted by the affected population. That is, each regulatory requirement is assigned a weight based on the relative size of the affected population.

[56] Sec. 318(a) of the Coast Guard Authorization Act of 2015, Pub. L. 114–120, changed the applicability of classing requirements for CFVs. The 2010 and 2012 legislation extended the classing requirement to CFVs of 50 feet or more overall in length and built before July 1, 2013. The 2015 Act exempts from that requirement CFVs of at least 50 and not more than 79 feet overall in length, and built after Feb. 8, 2016, provided their construction is overseen by a State-licensed naval architect or marine engineer, and their design "incorporates standards equivalent to those prescribed by a classification society . . . . or another qualified organization. . . ." This NPRM does not incorporate any of the 2015 provisions, which must be reflected in our regulations through future regulatory action.

Exhibit D: Distribution* of Revenues for Commercial Fishing Vessels



*For presentation purposes the top two percentiles were excluded.

For the initial implementation period, based on MANTA revenue estimates, 18 percent of affected owners will incur a cost of 1 percent or less of revenues, while 17 percent will incur a cost impact of between 10 and 30 percent of revenues. Approximately 6 percent will incur costs greater than 30 percent of revenues. (Table 25). For the recurring costs, 74 percent of fishing vessel owners will incur 1 percent or less of revenues. The Coast Guard expects this rule will have a significant economic impact on a substantial number of small entities. As discussed previously, this rulemaking would implement only the mandatory provisions required by Congress and for which the Coast Guard cannot exercise discretion. Therefore, the Coast Guard does not have the authority to grant relief to small businesses from the cost of this rule.

TABLE 26—REVENUE IMPACTS ON AFFECTED SMALL BUSINESSES

Impact range	Initial implementation impact (percent)	Recurring impact (percent)
0% < Impact ≤ 1%	18	74
1 < Impact ≤ 3	21	19
3 < Impact ≤ 5	13	3
5 < Impact ≤ 10	24	2
10 < Impact ≤ 30	17	1.5
≥ 30	6	0.3

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

D. Collection of Information

This proposed rule calls for a revision to an existing collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), "collection of information" comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Commercial Fishing Industry Vessel Regulations.

OMB Control Number: 1625–0061.

Summary of the Collection of Information: Sections 28.140, 28.155, 28.201, and 28.270 of this proposed rule would amend the collection-of-information requirements for vessel owners and operators of certain U.S. commercial fishing vessels. These changes would require vessel owners and operators that operate beyond 3 nautical miles of the baseline to document lifesaving equipment maintenance and inspection and instructions and drills.

Vessel owners and operators of subpart C CFVs (those operating beyond 3 nautical miles, or with more than 16 individuals on board, or that are Aleutian fish tenders) must also document the completion of a dockside examination at least once every 5 years. These new requirements would require a change in previously approved OMB Collection 1625–0061.

Need for Information: The Coast Guard needs this information to determine whether a vessel meets the new regulatory requirements for dockside examinations, and documentation of certain activities.

Proposed Use of Information: The Coast Guard would use this information to determine whether a vessel meets the new regulatory requirements for dockside examinations, and documentation of certain activities.

Description of Respondents: The respondents are vessel owners and operators of certain U.S. commercial fishing vessels.

Number of Respondents: This proposed rule would increase the number of respondents in this OMB-approved collection by 36,115 as operators of certain commercial fishing vessels would need to document dockside examinations, and certain maintenance activities.

Frequency of Response: This proposed rule would vary the number of responses each year by requirement. Details are shown in Table 27.

Burden of Response: The burden of response for each regulatory requirement varies. Details are shown in Table 27.

Estimate of Total Annual Burden: The annual increase in burden from this rule would be approximately 20,251 hours. That includes 14,446 hours from the private sector (36,115 responses) and an additional government burden estimated at 5,805 hours for 23,221 responses.

TABLE 27—COLLECTION OF INFORMATION BY NPRM REQUIREMENT

NPRM requirement	Frequency	Duration (hours)	Annual duration (hours)	Number of vessels	Wage rate	Number of responses per year	Total number of responses	Annual burden	Annual cost
Records, Documentation of Equipment Maintenance, and Inspection.	Varies	0.4	0.4	36,115	$45	1	36,115	14,446	$652,324
Examination and Certificates of Compliance, Documentation.	Once over the first three years.	0.25	0.25	23,221	45	1	23,221	5,805	262,142
Additional Burden for NPRM							59,336	20,251	914,465
Government Costs, *Examination and Certificates of Compliance.*	Once over the first three years.	0.25	0.25	23,221	66	1	23,221	5,805	377,341

As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3,507(d), we have submitted a copy of this rule and an information request to OMB for its review of the collection of information.

We ask for public comment on the collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the Coast Guard could enforce the collection of information requirements in this rule, OMB would need to approve the Coast Guard's request to collect this information.

E. Federalism

A rule has implications for federalism under Executive Order 13132[57] if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis is explained below.

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[57] "Federalism," 64 FR 43255 (Aug. 4, 1999).

As noted above, this proposed rule would implement the statutory requirements enacted by the CGAA and CGMTA. In certain instances, Congress amended the scope and applicability of existing laws for uninspected commercial fishing vessels. For instance, the CGAA amended the applicability of 46 U.S.C. 4502(b)(1) so that previously promulgated equipment regulations are now required for undocumented commercial fishing vessels. Additionally, Congress changed the applicability of the statute to commercial fishing vessels that operate beyond "3 nautical miles from the baseline from which the territorial sea of the United States is measured or beyond 3 nautical miles from the coastline of the Great Lakes." Therefore, regulations promulgated under 46 U.S.C. 4502(b)(1), including those promulgated under its amended applicability, are within fields foreclosed from state or local regulation.

Congress also amended existing 46 U.S.C. 4502(b)(2), which directed the Coast Guard, via delegation by the Secretary, to promulgate regulations in the field of marine radios, survival craft, navigation equipment, medical supplies, and ground tackle for both documented and undocumented uninspected fishing vessels, fish processing vessels, or fish tender vessels, that operate beyond three nautical miles from the baseline, operate with more than 16 individuals on board, or that is a fish tender vessel that engages in the Aleutian trade. The Coast Guard has been granted the exclusive authority to promulgate regulations within these fields for these specific vessels and, consequently, these regulations are within fields foreclosed from state or local regulation.

Congress also directed the Coast Guard, via delegation by the Secretary, to promulgate additional regulations under for documented and undocumented uninspected commercial fishing vessels, fish processing vessels, or fish tender vessels, that operate beyond three nautical miles from the baseline, operate with more than 16 individuals on board, or that is a fish tender vessel that engages in the Aleutian trade. Specifically, Congress directed the Coast Guard to promulgate regulations for the training and certification of individuals in charge of these vessels, regulations requiring the individuals in charge of these vessels to maintain a record of equipment maintenance, required instruction and drills, and regulations that require dockside examinations and the issuance of certificates of compliance for these vessels. The Coast Guard has been granted the exclusive authority to promulgate regulations within the fields of training[58] and certification of individuals in charge, record-keeping, dockside examinations, and the issuance of certificates of compliance for subpart C CFVs, and consequently these regulations are also within fields foreclosed from state or local regulation.

Congress also established a new subsection in 46 U.S.C. 4502 that requires documented and undocumented uninspected fishing vessels, fish processing vessels, or fish tender vessels, that operate beyond 3 nautical miles from the baseline, operate with more than 16 individuals on board, or that is a fish tender vessel that engages in the Aleutian trade, to meet a level of safety equivalent to the minimum safety standards established by the Coast Guard for recreational vessels, promulgated under 46 U.S.C. 4302, so long as these commercial fishing vessels are less than 50 feet overall in length and are built after January 1, 2010. Regulations promulgated under 46 U.S.C. 4302 are within fields that Congress gave the Coast Guard the exclusive authority to regulate, and therefore, these regulations are within fields foreclosed from state or local regulation.

Additionally, Congress expanded the applicability of 46 U.S.C. 4503 for survey and classification requirements to documented or undocumented uninspected fishing vessels, fish processing vessels, or fish tender vessels, that operate beyond 3 nautical miles from the baseline, operate with more than 16 individuals on board, or that is a fish tender vessel that engages in the Aleutian trade, and that are also at least 50 feet overall in length and are built after July 1, 2013. The Coast Guard has been granted the exclusive authority to promulgate regulations for survey and classification requirements for these specific vessels and, consequently, these regulations are within fields foreclosed from state or local regulation.

Furthermore, Congress amended 46 U.S.C. 5102, so that fishing vessels built after July 1, 2013, must now be assigned a load line. The Coast Guard has been granted the exclusive authority to promulgate load line requirements for fishing vessels built after July 1, 2013. The regulations promulgated under 46 U.S.C. 5104 with respect to load lines for these vessels are within a field foreclosed from state or local regulation.

Lastly, Congress enacted 46 U.S.C. 2117, which grants the Coast Guard the authority to terminate a commercial fishing vessel's operations if an authorized individual determines that unsafe conditions exist. For these specific vessels, Congress granted to the Coast Guard the exclusive authority to enforce this section and to issue regulations pertaining to the termination of unsafe operations. These regulations, therefore, would be within a field foreclosed from state or local regulation.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule has implications for federalism under Executive Order 13132, please contact the person listed in the **FOR FURTHER INFORMATION** section of this preamble.

F. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

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[58] Because regulations on training require the exercise of the Coast Guard's discretion, and this proposed rule would be confined to implementing those statutory mandates that do not require the exercise of discretion, training will be the subject of future Coast Guard regulatory action and is not covered by the proposed rule.

I. Protection of Children

This rule is neither economically significant under Executive Order 12866 nor does it create an environmental risk to health or a risk to safety within the meaning of Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order. Though it is a "significant regulatory action" under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule is categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(c), (d), and (e) of the Instruction, and under sections 6(a) and 6(b) of the "Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions, Notice of Final Agency Policy" (67 FR 48243, July 23, 2002). This proposed rule involves training of personnel, inspection and equipping of vessels, equipment approval and carriage requirements, vessel operation safety equipment and standards, and congressionally mandated regulations that protect the environment. An environmental analysis checklist is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 46 CFR Part 28

Alaska, Fire prevention, Fishing vessels, Incorporation by reference, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 46 CFR part 28 as follows:

Title 46—Shipping

PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

■ 1. The authority citation for part 28 is revised to read as follows:

Authority: 46 U.S.C. 2103, 3316, 4502, 4505, 4506, 6104, 10603; Department of Homeland Security Delegation No. 0170.1, para. II (92.a), (92.b), (92.d), (92.g).

■ 2. Amend § 28.65 by revising paragraph (a) to read as follows and by removing paragraph (c).

§ 28.65 Termination of unsafe operations.

(a) A Coast Guard Boarding Officer is an individual authorized to enforce Title 46 of the United States Code for the purposes of 46 U.S.C. 2117 and may—

(1) Remove a certificate required by Title 46 from a vessel that is operating in a condition that does not comply with the provisions of the certificate;

(2) Order the master of a vessel that is operating that does not have onboard the certificate required by Title 46 to return the vessel to a mooring and to remain there until the vessel is in compliance with that title; and

(3) Direct the master of a vessel to which Title 46 applies to immediately take reasonable steps necessary for the safety of individuals onboard the vessel if the Boarding Officer observes the vessel being operated in an unsafe condition that the official believes creates an especially hazardous condition, including ordering the master to return the vessel to a mooring and remain there until the situation creating the hazard is corrected or ended.

* * * * *

■ 3. Amend § 28.110 by revising Table 28.110 to read as follows:

§ 28.110 Life preservers or other personal flotation devices.

* * * * *

TABLE 28.110—PERSONAL FLOTATION DEVICES AND IMMERSION SUITS

Applicable waters	Vessel type	Devices required	Other regulations
Beyond 3 nautical miles from the baseline from which the territorial sea of the U.S. is measured and north of 32°N or south of 32°S; and Lake Superior.	Documented	Immersion suit or exposure suit.	28.135; 25.25–9(a); 25.25–13; 25.25–15.
Coastal waters on the west coast of the U.S. north of Point Reyes, CA; beyond coastal waters, cold water; and Lake Superior.	All	Immersion suit or exposure suit.	28.135; 25.25–9(a); 25.25–13; 25.25–15.
All other waters (includes all Great Lakes except Lake Superior).	40 feet (12.2 meters) or more in length.	Type I, Type V commercial hybrid, immersion suit, or exposure suit.[1]	28.135; 25.25–5(e); 25.25–5(f); 25.25–9(a); 25.25–13; 25.25–15.

TABLE 28.110—PERSONAL FLOTATION DEVICES AND IMMERSION SUITS—Continued

Applicable waters	Vessel type	Devices required	Other regulations
	Less than 40 feet (12.2 meters) in length.	Type I, Type II, Type III, Type V commercial hybrid, immersion suit, or exposure suit.[1]	28.135; 25.25–5(e); 25.25–5(f); 25.25–9(a); 25.25–13; 25.25–15.

[1] Certain Type V personal flotation devices are approved for substitution for Type I, II, or III personal flotation devices when used in accordance with the conditions stated in the Coast Guard approval table.

■ 4. In § 28.120, add paragraph (i) to read as follows:

§ 28.120 Survival craft.

* * * * *

(i) On any vessel to which subpart C of this part applies, a survival craft described in this section must ensure that no part of an individual is immersed in water.

■ 5. Amend § 28.130 by adding paragraph (e) to read as follows:

§ 28.130 Survival craft equipment.

* * * * *

(e) On any vessel to which subpart C of this part applies, a survival craft described in this section must ensure that no part of an individual is immersed in water.

■ 6. Add § 28.170 to read as follows:

§ 28.170 Load lines.

Each fishing vessel built after July 1, 2013, must be assigned a load line in accordance with Subchapter E (Load Lines) of this chapter if it is 79 feet in length or greater, and operates outside the Boundary Line (per part 7 of this chapter).

■ 7. Revise the heading for 46 CFR part 28, subpart C, to read as follows:

Subpart C—Requirements for Vessels Operating Beyond 3 Nautical Miles, or With More Than 16 Individuals Onboard, or As Fish Tender Vessels Engaged in the Aleutian Trade

■ 8. Amend § 28.200 as follows:

■ a. Revise the section heading;

■ b. Designate the introductory text as new paragraph (a) and remove the word "documented," and redesignate existing paragraphs (a), (b), and (c) as paragraphs (a)(1), (2), and (3), respectively;

■ c. In newly redesignated paragraph (a)(1), remove the words "the Boundary Lines" and add, in their place, the words "3 nautical miles from the baseline by which the territorial sea of the U.S. is measured"; and

■ d. Add new paragraph (b).

The revision and addition to read as follows:

§ 28.200 Applicability; documentation of maintenance, training, and drills.

* * * * *

(b) The individual in charge of a vessel described in paragraph (a) of this section must keep a record of equipment maintenance, and required instruction and drills for three years.

■ 9. Add § 28.201 to read as follows:

§ 28.201 Examination and certification.

(a) Each vessel to which this subpart applies must be examined at dockside at least once every 5 years. Topics and equipment covered by the examination are listed on the Coast Guard Web site, *www.fishsafe.info/*, and generally cover lifesaving equipment, required documentation, bridge and engine room equipment, and miscellaneous required items. Each vessel meeting the applicable requirements of 46 U.S.C. chapter 45, "Uninspected Commercial Fishing Vessels," is issued a Coast Guard certificate of compliance following examination.

(b) Each vessel to which this subpart applies that is at least 50 feet overall in length and built after July 1, 2013, must—

(1) Meet all survey and classification requirements prescribed by the American Bureau of Shipping, available at *http://homeport.uscg.mil*, or another similarly qualified organization approved by the Coast Guard; and

(2) Have onboard a certificate issued by the American Bureau of Shipping or that other organization evidencing compliance with paragraph (b) of this section.

(c) A vessel to which this subpart applies that is at least 50 feet overall in length and was classed before July 1, 2012, must remain subject to the requirements of a classification society approved by the Coast Guard and have onboard a certificate from that society.

■ 10. Add § 28.202 to read as follows:

§ 28.202 Construction requirement for smaller vessels.

Each vessel to which this subpart applies that is less than 50 feet overall in length and built after January 1, 2010, must be constructed in a manner that provides a level of safety equivalent to the recreational vessel regulations in 33 CFR part 183.

■ 11. Amend § 28.205 by adding introductory text to read as follows:

§ 28.205 Fireman's outfits and self-contained breathing apparatus.

For any documented vessel to which this subpart applies:

* * * * *

§ 28.210 [Amended]

■ 12. Amend § 28.210 as follows:

■ a. In paragraph (a), remove the words "medicine chest of a size suitable for the number of individuals on board", and add, in their place, the words "medical supplies sufficient for the size and area of operation of the vessel, which on documented vessels must be in a readily accessible location";

■ b. In paragraph (b) introductory text, before the words "certification in first aid and CPR", add the words "On any documented vessel,";

■ c. In paragraph (b), remove the word "Certification" and add in its place the word "certification"; and

■ d. In paragraphs (c), (d), and (e), after the word "Each" and before the word "vessel", add the word "documented".

■ 13. Amend § 28.215 by adding introductory text to read as follows:

§ 28.215 Guards for exposed hazards.

For any documented vessel to which this subpart applies:

* * * * *

■ 14. Amend § 28.225 as follows:

■ a. Redesignate paragraphs (a) and (b) as paragraphs (b) and (c), respectively, and add new paragraph (a); and

■ b. In newly redesignated paragraph (b) introductory text and in newly redesignated paragraph (c) after the word "Each" and before the word "vessel", add the word "documented".

The addition to read as follows:

§ 28.225 Navigational information.

(a) Each vessel must have navigation equipment, including compasses, nautical charts, and publications.

* * * * *

§ 28.230 [Amended]

■ 15. In § 28.230, after the word "Each" and before the word "vessel", add the word "documented".

■ 16. Amend § 28.235 as follows:

■ a. Redesignate paragraphs (a) and (b) as paragraphs (b) and (c), respectively;

■ b. Add new paragraph (a);

■ c. In newly redesignated paragraph (b), remove the words "Each vessel" and add, in their place, the words "Each documented vessel"; and

■ d. In newly redesignated paragraph (c), before the word "nonmetallic", add the word "documented".

The addition to read as follows:

§ 28.235 Anchors and radar reflectors.

(a) Each vessel must have ground tackle sufficient for the vessel.

* * * * *

§ 28.240 [Amended]

■ 17. In § 28.240, in paragraph (a), after the word "each" and before the word "vessel", add the word "documented".

■ 18. Amend § 28.245 as follows:

■ a. Revise paragraph (a) introductory text;

■ b. In paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) after the word "Each" and before the word "vessel", add the word "documented"; and

■ c. Revise paragraphs (f), (g), (h), and (i).

The revisions to read as follows:

§ 28.245 Communication equipment.

(a) Each vessel must have marine radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities; and except as provided in paragraphs (b) through (e) of this section, each documented vessel must be equipped as follows:

* * * * *

(f) On each documented vessel, the principle operating position of the communication equipment must be at the operating station.

(g) On each documented vessel, communication equipment must be installed to ensure safe operation of the equipment and to facilitate repair. It must be protected against vibration, moisture, temperature, and excessive currents and voltages. It must be located so as to minimize the possibility of water intrusion from windows broken by heavy seas.

(h) On each documented vessel, communication equipment must comply with the technical standards and operating requirements issued by the Federal Communications Commission, as set forth in 47 CFR part 80.

(i) On each documented vessel, all communication equipment must be provided with an emergency source of power that complies with § 28.375 of this part.

§ 28.250 [Amended]

■ 19. In § 28.250, in the introductory text, before the word "vessel", add the word "documented".

■ 20. Amend § 28.255 by adding introductory text to read as follows:

§ 28.255 Bilge pumps, bilge piping, and dewatering systems.

For any documented vessel to which this subpart applies:

* * * * *

§ 28.260 [Amended]

■ 21. In § 28.260, after the word "Each" and before the word "vessel", add the word "documented".

■ 22. Amend § 28.265 by adding introductory text to read as follows:

§ 28.265 Emergency instructions.

For any documented vessel to which this subpart applies:

* * * * *

■ 23. Amend § 28.270 as follows:

■ a. Add a new introductory paragraph; and

■ b. Revise the first sentence of paragraph (a).

The additions and revisions to read as follows:

§ 28.270 Instruction, drills, safety orientation, and training.

The master or individual in charge of any documented vessel to which this subpart applies must ensure compliance with this section, but may delegate the actual conduct of instruction and drills required by paragraphs (a) through (d) of this section to a person who may or may not be a member of the crew.

(a) *Drills and instruction.* Drills must be conducted and instruction must be given to each individual onboard at least once each month. * * *

* * * * *

§ 28.500 [Amended]

■ 24. Amend § 28.500 introductory text by removing the words "that is not required to be issued a load line under subchapter E of this chapter and".

Dated: June 10, 2016.

Paul F. Zukunft,

Admiral, U.S. Coast Guard Commandant.

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Part IV

The President

Proclamation 9463—National Week of Making, 2016

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Presidential Documents

Title 3—

The President

Proclamation 9463 of June 16, 2016

National Week of Making, 2016

By the President of the United States of America

A Proclamation

The same American spirit of innovation and entrepreneurship that has steered our Nation through the industrial and digital revolutions—and led our people to explore the depths of the oceans and the distant planets in our solar system—has enabled us to reimagine our world through new ideas and discoveries. Since our earliest days, makers, artists, and inventors have driven our economy and transformed how we live by taking risks, collaborating, and drawing on their talents and imaginations to make our Nation more dynamic and interconnected. During National Week of Making, we recommit to sparking the creative confidence of all Americans and to giving them the skills, mentors, and resources they need to harness their passion and tackle some of our planet's greatest challenges.

Today, Americans of all ages have the ability to connect and showcase their creativity through a growing maker movement. Technologies like 3D printing and desktop machine tools are rapidly lowering the costs of production; additional sources of capital such as crowdfunding are reducing barriers to getting started; and the democratization of technology is empowering more makers, helping to boost entrepreneurship and stimulate American manufacturing. Over the last 6 years, we have added over 800,000 manufacturing jobs and introduced next-generation manufacturing hubs. Just as the personal computer and the Internet transformed our Nation over the last several decades, these new opportunities can inspire the next generation of students, innovators, and entrepreneurs to carry forward our legacy of ingenuity.

In 2014, I launched the Nation of Makers initiative to ensure more Americans of all ages and backgrounds have greater opportunities to design, build, and manufacture. My Administration is taking steps to foster "maker mindsets" by promoting skills like creative problem-solving, and to support the development of collaborative maker spaces so aspiring makers and manufacturers can turn their bold ideas into realities. I am proud that so many people across our country have already joined in this effort. Mayors have hosted maker roundtables and town halls; Federal agencies have worked with schools, libraries, recreation centers, and museums to create maker spaces, curricula, and tools to help students learn the design process; and private businesses and other local collaborators have empowered individuals with the entrepreneurial resources and skills they need to launch companies and sell their products.

Together we must continue to expand opportunity for generations to come by working to eliminate the digital divide and reduce existing skill and confidence gaps. We must prepare young people for the jobs of the future by equipping them with the analytical skills needed to solve problems and the computer science and hardware development skills required to power our innovation economy. It is critical that we support the types of hands-on science, technology, engineering, and math (STEM) learning experiences—in both formal and informal environments—that students encounter through making, which can help unlock their full potential and ignite their enthusiasm for the careers of tomorrow. That is why we are prioritizing investment in STEM teaching and active learning, expanding access to rigorous STEM courses like computer science, encouraging more opportunities in communities of greatest need, and working to get underrepresented students, including women and minorities, involved to increase diversity in STEM fields.

Across our country, Americans are attending all types of maker events and workshops—from studios in small towns to the streets of our Nation's capital—to share their incredible inventions and ideas with others and to inspire all of us to join in the creative process. As we celebrate the power of American ingenuity, I invite communities to build on this progress by encouraging citizens to be creators and by working together to ensure that spaces for making are available anywhere Americans live, work, play, and learn. This week, let us turn today's sketches and dreams into tomorrow's "Made in America" labels, and let us embrace the audacious spirit of human curiosity that is embedded in our DNA.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim June 17 through June 23, 2016, as National Week of Making. I call upon all Americans to observe this week with programs, ceremonies, celebrations, and activities that encourage a new generation of makers and manufacturers to share their talents, solutions, and skills.

IN WITNESS WHEREOF, I have hereunto set my hand this sixteenth day of June, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and fortieth.

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